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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 23 June 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you, in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), the report submitted by the Government of the Bolivarian Republic of Venezuela pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex), which was received by this Permanent Mission on 31 March 2003.

(*Signed*) Adriana **Pulido**
Ambassador
Chargé d'affaires a.i.

03-40804 (E) 020703 030703

Annex to the letter dated 23 June 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Committee

Report of Venezuela submitted pursuant to Security Council resolution 1455 (2003)

1. Improvement of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002).

With regard to the requirements contained in the above-mentioned resolutions, the Bolivarian Republic of Venezuela, as a member of the United Nations and the Organization of American States, has adopted legislative and administrative measures, pursuant to United Nations Security Council resolutions on the elimination of terrorism, for the prevention of money-laundering and financing of terrorism, including activities related therewith and with the legal persons or individuals involved. To that end and in implementation of the measures described in resolution 1390 (2002), the following legislative and administrative measures have been taken.

With regard to legislative measures, Venezuelan law has a series of provisions that provide for procedures and penalties to guard against operations carried out by criminal and/or terrorist organizations; most of those provisions are contained in two legal instruments which govern economic and financial transactions:

(a) Organic Law on Narcotic Drugs and Psychotropic Substances;

(b) General Act on Banks and Other Financial Institutions.

The Organic Law on Narcotic Drugs and Psychotropic Substances requires the Venezuelan financial system to design and develop policies and plans to protect itself against the laundering of proceeds of drug trafficking. In that regard, article 213 requires the national executive branch, through the appropriate agencies, to design and develop an operating plan including preventive measures at the national level to keep the banking and financial system from being used to launder funds and economic assets deriving from the commission of the crimes specified in the Law or from activities related thereto.

The General Act on Banks and Other Financial Institutions, in keeping with the thrust of current national legislation and accepted principles of effective banking supervision, mandates banking practices and procedures that promote high ethical and professional standards to prevent the use of the banking system by criminal organizations. For that purpose, under article 226 of the Act, a National Financial Intelligence Unit (UNIF) was created within the functional structure of the Office of the Superintendent of Banks and Other Financial Institutions (SBIF). The Unit functions as a central clearing house; it receives, analyses and classifies reports of suspicious activities submitted by the institutions, firms and individuals subject to its supervision and forwards them to the Public Prosecutor's Office. In addition, it gathers financial information (both objective and subjective) on suspicious activities to assist the criminal investigation authorities.

Furthermore, the General Act on Banks and Other Financial Institutions provides for an exception to the general principle that requires financial institutions to maintain banking secrecy. To that end, it states that banking secrecy may not be cited as a reason for refusing requests for information from the Office of the Superintendent of Banks and Other Financial Institutions in the exercise of its functions.

The following administrative measures for the freezing of funds and other financial assets or economic resources belonging to individuals, groups, undertakings and entities included in the list referred to in paragraph 2 of resolution 1390 (2002) have been adopted:

(a) Resolution No. 185-01 issued by the Office of the Superintendent of Banks and Other Financial Institutions;

(b) Circular No. SBIF-UNIF-DPC-0563 from the Office of the Superintendent of Banks and Other Financial Institutions;

(c) Circular No. SBIF-UNIF-DPC7961 of 23 September 2002.

Resolution No. 185-01 of 12 September 2001 (rules applicable to entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions on the prevention, control and inspection of money-laundering operations) requires the institution of modern mechanisms for monitoring and controlling the flow of funds, since the entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions may be used by persons engaging in illegal activities. According to the resolution, it is the responsibility of the Republic and of the stockholders, administrators, directors and staff of the regulated entities to prevent the entities from being used as intermediaries for money-laundering. To that end, they are required to set up information and electronic data-processing systems and control procedures aimed at detecting operations that involve the laundering of funds deriving from illegal activities and to assemble the necessary records for reporting to the competent authorities.

Financial institutions, registries and public notaries are required to report to the criminal investigation authorities all banking transactions that are unusual or that exceed set amounts of national or potentially suspicious foreign currency. Within the Scientific, Criminal and Forensic Investigation Force an investigative unit called the Anti-Money-Laundering Division has been set up to be responsible for financial follow-up of all such unusual banking transactions.

In addition, the Office of the Superintendent of Banks and Other Financial Institutions issued circular No. SBIF-UNIF-DPC-0563 instructing financial institutions about their obligation to report operations that they find or suspect are related to the laundering of funds deriving from activities connected with organized crime or intended for the financing of terrorism. Circular No. SBIF-UNIF-DPC7961 of 23 September 2002 requires financial institutions supervised by the National Financial Intelligence Unit to report to that Unit any transaction or activity suspected of being linked to the activities of organized criminal groups or structured groups defined in the Act Approving the United Nations Convention against Transnational Organized Crime, published in *Gaceta Oficial* No. 37.357 of 4 January 2002.

In that connection, the Office of the Superintendent of Banks, through the intermediary of the National Financial Intelligence Unit, has carried out the following preventive actions within the framework of the fight against terrorism:

- Tracking the relations with the financial system of individuals and legal persons included in lists of terrorists or persons suspected of terrorism or of activities directly or indirectly linked to drug trafficking;
- Collecting financial data in order to identify fund-raising organizations and study and monitor the flow of funds;
- Forecasting, enhancing the capacity to predict trends and patterns;
- Exchanging information with the Financial Intelligence Units of the 96 member countries of the Egmont Group, by means of which over 900 requests for persons allegedly connected with terrorist activities and their financing have been processed. The Federal Bureau of Investigation (FBI), the Financial Crimes Enforcement Network (FinCEN) and the United States Embassy in Caracas are also involved in the exchange of information.

At the international level, Venezuela has signed and ratified a number of conventions and treaties on the suppression of the financing of terrorism:

- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, published in *Gaceta Oficial* No. 34.741 of 21 June 1991;
- United Nations Convention against Transnational Organized Crime, published in the *Gaceta Oficial* No. 37.357 of 4 January 2002;
- International Convention for the Suppression of the Financing of Terrorism, approved in second reading on 11 September 2002.

Furthermore, the current session of the National Assembly is considering a draft law against organized crime, approved in second reading, and a draft special law against terrorist acts, approved in first reading, which specifically define the crime of terrorism, suppress actions aimed at the financing of terrorism and punish the individuals involved, whether they are authors, accomplices or accessories.

With regard to measures adopted to prevent the entry into or transit through Venezuelan territory of persons referred to in the list mentioned in paragraph 2 of Security Council resolution 1390 (2002), Venezuela strengthened control measures after 11 September 2001 in order to prevent the entry into the country of individuals identified by international intelligence agencies as being suspected of, responsible for or accomplices to terrorist activities. Thus, pursuant to Security Council resolution 1390 (2002), the relevant measures have been implemented: information on individuals and assets is being processed and reciprocal cooperation in the area of intelligence is being maintained with various countries. Security systems at ports, airports and border crossing points have also been reinforced.

A network for coordination among all State security bodies has been created in order to safeguard border areas and the national territory and there is an ongoing exchange of information between those bodies and other police organizations at the international level through the International Police (Interpol) Division with a view to verifying the identity of all persons under investigation for any reason.

At the national level, border controls have been reinforced at all international ports and airports, including more careful inspection of the documentation of all foreign nationals wishing to enter or leave the country.

Venezuela is adopting measures to strengthen its national identification system with a view to preventing the fraudulent use of travel and identity documents. To that end, security systems have been installed at airports, as well as equipment to examine identity documents in order to detect any anomaly that would show they were forged. In that context, a project has been approved for replacing the current national identity card with a new card that will have a number of security features to prevent forgery. With regard to passports, the General Identification and Immigration Directorate has developed a project for replacing passports with new ones that meet international security standards.

Interdisciplinary groups have also been created to carry out intelligence work at the national level, in order to evaluate, analyse and process any information that might be obtained on foreign nationals or Venezuelans and that might point in some way to irregular activities in the country, so that such individuals are identified fully and their financial transactions, movements and activities monitored.

With the support of the United Nations, Venezuela is carrying out a project to modernize its customs operations, beginning with maritime customs in La Guaira, with a view to optimizing customs controls at its borders and preventing international trafficking in arms, ammunition, explosives and drugs. Furthermore, the soon to be adopted draft law on the national police provides for the establishment of an airport police unit, which will facilitate the identification of all persons entering or leaving the country and will cooperate closely with other State security bodies.

In the area of legislation, article 2 (11) of the Act on the Scientific, Criminal and Forensic Investigation Force provides that its responsibilities include cooperating with other public security bodies in the establishment of crime prevention centres and the organization of monitoring systems or criminological databases for information-sharing among intelligence services in the areas of drug trafficking, international terrorism, disappearances of persons, illicit capital movements, organized crime and other offences. Article 2 (5) states that the Force is responsible for assisting the General Identification and Immigration Directorate as needed and for cooperating in identifying, locating and apprehending foreign nationals requested by other countries.

2. Requirement to provide the names and identity data of individuals, groups, undertakings and entities that have been arrested or detained because there are reasonable grounds to believe that they are members of the al-Qa`idah organization or the Taliban or are associated with them.

The International Police (Interpol)[1] Division has reported that there are no records of names or identity data of individuals, groups, undertakings or entities associated with members of the al-Qa`idah terrorist organization currently domiciled in the country and that, to date, no individuals, groups or undertakings have been

[1] According to letter No. 661 of 18 March 2003 from the International Police (Interpol) Division of the Scientific, Criminal and Forensic Investigation Force, annexed to this document.

arrested because there are reasonable grounds to believe that they are be members of or associated with the al-Qa`idah terrorist organization or the Taliban.

3. Names of individuals, undertakings and entities whose accounts have been frozen because they belong to the al-Qa`idah organization or the Taliban.

The National Financial Intelligence Unit[2] has reported that, to date, no bank accounts of individuals associated with the al-Qa`idah terrorist network have been seized or frozen; the financial institutions under its supervision have indicated that they have no commercial or financial relations with the individuals and organizations mentioned in the various lists issued in that regard.

4. Changes to or updating of legislation or procedures which could affect the implementation of Security Council resolution 1267 (1999).

It is important to mention that the national network against money-laundering has made great efforts to develop and implement a strategic operating plan for the prevention, monitoring, control and suppression of the serious crime of laundering funds deriving from illicit drug trafficking, corruption and terrorism.

Under this plan, the network will adopt the following strategies:

- Promoting legislative and administrative initiatives to strengthen the existing juridical framework in the area of the prevention, control and monitoring of money-laundering;
- Strengthening existing mechanisms with a view to preventing the use of the economic system by criminal organizations;
- Establishing monitoring mechanisms to regulate the flow of cash entering or leaving the country;
- Establishing suitable mechanisms for coordination and cooperation among the various public and private entities at the national and international level, with a view to combating the crime of money-laundering.

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[2] According to letter No. 02181 of 25 February 2003 from the National Financial Intelligence Unit (UNIF), annexed to this document.

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 8 July 2003 from the Permanent Representative of Venezuela to the United Nations addressed to the Chairman of the Committee

I have the honour to write to you in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), with reference to the previous report of the Government of the Bolivarian Republic of Venezuela submitted pursuant to paragraph 6 of Security Council resolution 1455 (2003), in its letter No. 584 of 23 June 2003 (S/AC.37/2003/(1455)/53).

I would like to request that the Committee consider that report to be a preliminary report, in the context of Venezuela's will and effort to meet its commitment to the international fight against terrorism. The present letter contains an updated report that reflects the Committee's detailed guidelines for the submission of said reports (see annex). I would therefore be grateful if the Committee you chair would consider the current document to be the report submitted by the Government of the Bolivarian Republic of Venezuela pursuant to paragraph 6 of resolution 1455 (2003), replacing the previous report. If the preliminary report has already been formally circulated, I would ask you to ensure that the current text is circulated as the report which in fact follows the guidelines established by the Committee.

I should also like to inform you that the present report consists of the following annexes:*

(a) Annex 1 — Report on the measures taken by the National Financial Intelligence Unit (UNIF) with regard to the terrorist organization of Osama bin Laden, the al-Qa'idah network and the Taliban;

(b) Annex 2 — Model from the Army Weapons Office (DARFA) to the Customs Service authorizing a company to import weapons;

(c) Annex 3 — Model import authorization issued by DARFA;

(d) Annex 4 — DARFA manual of standards and procedures.

(*Signed*) Milos **Alcalay**
Ambassador
Permanent Representative

* The enclosed documentation may be consulted in the Secretariat.

03-42332 (E) 180703 180703

Annex to the letter dated 8 July 2003 from the Permanent Representative of Venezuela to the United Nations addressed to the Chairman of the Committee

Report of the Bolivarian Republic of Venezuela submitted to the United Nations Counter-Terrorism Committee pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

To date there has been no evidence of any activities actually undertaken in Venezuela by Osama bin Laden, al-Qa`idah, the Taliban or their associates; however, that does not mean that such persons do not pose a threat to the country. Venezuela is not immune from such activities and the Government is therefore fully disposed to implement any resolutions in that regard by adopting the measures needed to prevent those individuals and entities from undertaking activities in Venezuelan territory. In the legislative sphere, the National Assembly is preparing an entire regulatory framework defining the specific crimes of terrorism and the financing of terrorism. In this connection, the draft law against organized crime and the draft law against terrorism are the principal instruments aimed at creating the legal framework for effectively fighting terrorism.

Terrorism by its very nature constitutes a contemporary global phenomenon with political, social and economic effects. At the strategic level it poses a worldwide threat to States and societies, which makes the region vulnerable to that threat, with the same likelihood of terrorist attacks and activities as in the United States of America or Europe.

II. Consolidated list

2. How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The list is distributed to all competent authorities with a view to keeping them informed of additions to it. All Security Council resolutions are also distributed so that the competent authorities may adopt the measures required for their implementation, in accordance with Venezuela's commitment as a member of the Organization.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

No problems have been encountered with implementation with regard to the names and identifying information currently included in the list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, the national authorities have not identified any individual or entity included in the list.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.

No individuals or entities associated with Osama bin Laden or the Taliban have been discovered.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

This situation has not arisen.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

Currently, none of the individuals included in the list is a national or resident of our country.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

To date there has been no case in the country of recruitment of individuals by members of the al-Qa`idah terrorist network.

III. Financial and Economic Assets Freeze

9. Please describe briefly:

– the domestic legal basis to implement the asset freeze required by the resolutions above;

Article 116 of the current Constitution establishes that the confiscation of assets shall not be ordered or carried out except in cases permitted under the Constitution. Assets belonging to natural or legal persons, either nationals or foreigners, guilty of crimes committed against public property, the assets of persons who enrich themselves illegally through the use of public office and assets derived from commercial, financial or any other activities linked to illicit trafficking in narcotic drugs and psychotropic substances may be confiscated only on an exceptional basis and pursuant to a definitive court order.

Article 66 of the Organic Law on Narcotic Drugs and Psychotropic Substances provides that movable and immovable property, assets, vehicles, ships or aircraft, apparatus, equipment, instruments and other articles which may have been used in

the commission of the crimes described in that Law, including the "legitimization of capital", the term used in our legislation to describe money-laundering, shall in all cases be confiscated and pursuant to the final juridical decision in that regard, shall be handed over to the Ministry of Finance, which shall dispose of them.

In addition, Article 235 of the Statutory Decree constituting the General Act on Banks and Other Financial Institutions provides that one of the roles of the Office of the Superintendent of Banks and Other Financial Institutions is to require that the competent authorities, in accordance with the relevant constitutional and legal provisions, institute preventive measures for the freezing of an account, investment or financial transaction of any kind.[1]

– any impediments under your domestic law in this context and steps taken to address them.

The necessary measures are being adopted to remedy impediments under our domestic law, for example rapid approval of the draft law against organized crime and the draft law against terrorism.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The juridical basis for the powers and functioning of the National Financial Intelligence Unit (UNIF) is contained in Article 213 of the Organic Law on Narcotic Drugs and Psychotropic Substances and Article 226 of the General Act on Banks and Other Financial Institutions. The Unit functions as a central clearing house; it requests, receives, and analyses information from the entire Venezuelan financial system relating to the crime of money-laundering and the financing of terrorism and forwards that information to the competent authorities.

The UNIF database is made up of periodic or other reports which must be submitted by the bodies concerned. Reports must be submitted electronically within 15 days following the end of the month, and include the following information:

- Deposits or withdrawals from current or savings accounts, liquid asset funds or other products of 4.5 million bolívares or more;
- Purchase or sale of amounts of US$ 10,000 or more or the equivalent in other currencies;
- Transfers of US$ 10,000 or more or the equivalent in other currencies from or to a point outside the Bolivarian Republic of Venezuela;
- Transfers of US$ 3,000 or more or the equivalent in other currencies made from or to territories or regions which are not cooperating with regard to money-laundering and banking secrecy;

[1] See annex, Report on the measures taken by the National Financial Intelligence Unit, with regard to the Osama bin Laden terrorist organization, the al-Qa'idah network and the Taliban, page 1.

- Transfers of US$ 750 or more or the equivalent in other currencies made to or from drug-producing regions or territories located in the Americas;
- Electronic transfers of US$ 2,000 or more or the equivalent in other currencies;
- Sales of electronic money in foreign currencies using "electronic cash cards", whatever the amount involved.[2]

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Under the "due diligence and good faith" requirement, banks and other financial institutions must not only comply with the norms, procedures, internal mechanisms and prevention and control policies established in Venezuelan legislation for the prevention and control of money-laundering and the financing of terrorism but also show that they have implemented them in practice.

In this connection, they must design and develop an Integral System of Prevention and Control that includes appropriate, sufficient and effective measures to prevent financial operations from being used as instruments to conceal the origin, purpose or object, or illegal use of assets, whether through disposition, transfer, currency conversion or investment, including the purchase and sale of securities, or any use of cash or other assets deriving from criminal activities, or to give the appearance of legality to transactions and funds associated with them. The entities concerned shall use this same system to detect suspicious operations related to the financing of terrorism.[3]

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**

No assets have been frozen thus far, since no one on the list has been detected. The National Financial Intelligence Unit has not uncovered financial assets (tangible or intangible assets) associated with the individuals included in the list.

- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property and other assets);**

No assets have been frozen thus far, since no one on the list has been detected.

- **the value of assets frozen.**

[2] See annex, Report of the National Financial Intelligence Unit, page 3.

[3] See annex, Report of the National Financing Intelligence Unit, page 7.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

This situation has not arisen in our country.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa`idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**

UNIF maintains, and has maintained, a proactive and diligent attitude towards preventing the use of the national banking system as a means for laundering money deriving from unlawful activities of any kind and financing terrorism, in accordance with the provisions of Venezuelan laws and regulations and international agreements.

In this connection, UNIF has promoted training programmes, including forums, seminars and conferences, on preventing money-laundering and the financing of terrorism for banks and other financial institutions.

Additionally, through the Department of Prevention and Control, special inspections have been conducted to evaluate the internal controls and technological resources of the entities concerned. Circulars have been issued to the entire Venezuelan financial system to apprise it of the new guidelines on the Prevention of Money Laundering and the Financing of Terrorism.[4]

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;**

Through their officer or employee in charge of the prevention of money-laundering, banks and other financial institutions should submit a Suspicious Transaction Report electronically, using form PMSBIF0044/0497, to the National Financial Intelligence Unit, on any transaction effected by a customer which might be unusual, out of the ordinary, complex, in transit or structured, and which, after investigation, is presumed to involve funds derived from an illegal activity, or to have been effected, or attempted, in order to conceal or dissimulate funds or assets derived from activities which are illegal or for which there is no reasonable justification. In addition to the above-mentioned operations, they should include

[4] See annex, UNIF report, page 11.

those that might be linked to the actions of organized criminal groups or structured groups, as defined in the Law Adopting the United Nations Convention against Transnational Organized Crime.[5]

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated;**

Under Article 214 of the Organic Law on Narcotic Drugs and Psychotropic Substances, entities subject to the General Law on Insurance and Reinsurance and the Law on Capital Markets are required to cooperate with the national executive branch in the control and inspection of cash or other assets presumably deriving, directly or indirectly, from the crimes referred to in that Law, or from activities associated with them.

Under the above-mentioned Law, the Office of the Superintendent of Banking and Other Financial Institutions adopted decision No. 99-2-2-2820 of 7 December 1999, published in Official Gazette No. 5.4321 of 7 January 2000, concerning "Norms relating to the Prevention, Control and Inspection of Insurance and Reinsurance Operations with a View to Preventing Money Laundering". As for the capital market, resolution No. 510-97 of 12 December 1997 concerning "Norms on the Prevention, Control and Inspection of Money Laundering Operations applicable to the Venezuelan Capital Market" was adopted and published in Official Gazette No. 36.411.[6]

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

Under Article 218 of the Organic Law on Narcotic Drugs and Psychotropic Substances, the national executive branch, through the Ministry of Finance, is empowered to monitor, control and supervise trade in precious metals, collectors' items, precious stones, jewels, objets d'art and other similar valuable items, in particular the purchase and sale of gold and its export and the income derived from such operations.

The Ministry of Finance shall also inform the National Financial Intelligence Unit whenever there is a suspected link between operations related to trading in the above-mentioned valuable items and the crimes specified in the Law on Narcotic Drugs and Psychotropic Substances.

- **Restrictions or regulations, if any, applicable to alternate remittance systems, such as — or similar to — "hawala" as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

In Venezuela, all financial intermediation, fund-raising and money transfers or remittances can be effected only by those financial institutions subject to the General Act on Banks and Other Financial Institutions.

Alternate remittance systems, such as "hawala" or other systems, are not authorized.[7]

[5] See annex, UNIF report, page 12.
[6] See annex, UNIF report, page 14.
[7] See annex, UNIF report, page 16.

IV. Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

With regard to the measures taken to prevent the entry into or transit through Venezuelan territory by individuals included in the list referred to in paragraph 2 of resolution 1390 (2002), it should be stressed that, in the wake of 11 September 2001, Venezuela intensified control measures in order to prevent individuals identified by international intelligence agencies as being suspected of, responsible for or accomplices to terrorist activities from entering the country. Thus, pursuant to resolution 1390 (2002), the relevant measures have been taken in that regard; information on individuals and assets is being processed and reciprocal cooperation in the area of intelligence is being maintained with various countries. Security systems at ports, airports and border crossing points have also been strengthened.

Thus, a network for coordinating all State security bodies has been created in order to safeguard border areas and the national territory and there is an ongoing exchange of information between these bodies and other police organizations at the international level through the Division of the International Police (International Criminal Police Organization (Interpol)) with a view to verifying the identity of all persons under investigation for whatever reason.

At the national level, border controls have been reinforced at all international ports and airports, including more careful inspection of the documentation of all foreign nationals wishing to enter or leave the country.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

In order to prevent terrorist acts in Venezuela, there are a number of actions and measures that the authorities take to identify suspicious persons. The National Division for Identification and Immigration, through the Office of Migration and Border Areas, is constantly verifying the possible presence of or transit through Venezuelan territory of known members of such terrorist organizations as ETA in Spain, Middle Eastern fundamentalists and the al-Qa'idah network. It also facilitates access by national and international investigators to immigration information contained in the database of the Immigration Office concerning foreigners who are being monitored or investigated for various crimes (including terrorism) in order to determine their point of entry, location and activities in Venezuela and/or their departure from its territory.

Measures have been taken to deny entry to or expel foreigners involved in certain acts, including the following:

- Past or current trafficking in narcotics, drugs, hallucinogens or any similar substance.
- Extradition from the country.
- Appearing in the specialized registries of Interpol.
- Participation, whether direct or indirect, trafficking in persons or human organs.

- Entry into the country with false documents or without meeting all the legal requirements.
- Involvement in acts which, in the opinion of the immigration authorities, make the foreigner a potential danger to national security or peace.
- For reasons of security and public order, it is necessary to obtain a permit from the authorities to enter certain areas of Venezuelan territory.
- All means of international transport arriving in or departing from Venezuelan territory are subject to control by the immigration authorities, who review the documents of the crew and passengers they transport.
- Likewise, hotels, hostels, residences and, in general, any place which houses foreigners keep a registry of foreigners with their full names, nationality, identity document number and place of origin and destination.
- The intelligence services of Venezuela maintain communication and regularly exchange information on subversive activities and organized crime in any of its forms. This has contributed to the arrest of persons sought by Interpol, the Federal Bureau of Investigations (FBI), the Drug Enforcement Administration (DEA) and United States Bureau of Alcohol, Tobacco and Firearms (ATF).
- Venezuela signed an agreement on the exchange of police information with the United States, which remains in effect.
- Immigration controls have been tightened, in a coordinated effort carried out by all security bodies in the border towns and airport zones.
- Venezuela has the lists of citizens sought for terrorism at the international level, which are being processed by the Office of Immigration and Border Areas and State security bodies.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The list is transmitted to the competent authorities each time the responsible body receives it from the United Nations. It is also transmitted by electronic means to all the entry points in the country.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

This situation has not arisen.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

This situation has not arisen.

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by

Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The current legal system contains two instruments governing this subject: the Weapons and Explosives Act and the Disarmament Act. It is important to point out that, in accordance with article 324 of the Constitution of the Bolivarian Republic of Venezuela, the national army is the competent institution which regulates and monitors the manufacture, import, export, storage, transit, registration, control, inspection, trade in, possession and use of weapons, ammunition and explosives. Thus, the Weapons and Explosives Act along with the Disarmament Act, published in Official Gazette No. 37.059 dated 20 August 2002, stipulate that the national army is the competent institution to regulate and control seizure of illegal firearms; to this effect it is recommended that the Protocol in question should be directed to the Ministry of Defence so that it may make any necessary observations.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

No such legislation exists.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Through an exchange of information among the competent authorities it would be possible to identify any request involving suspicious persons.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

First it must be noted that the current Constitution establishes, in its article 324, "only the State may possess and use weapons of war. Any such weapons that are present in, manufactured in or brought into the country shall become the property of the Republic without compensation or recourse. The national army will be the competent institution to regulate and control, in accordance with the relevant law, the manufacture, import, export, storage, transit, registration, control, inspection, trade in, possession and use of other weapons, ammunition and explosives."

Therefore, in accordance with the information supplied by the Army Weapons Office (DARFA), the following arms control measures have been adopted:

1. Import licences are granted to companies registered with DARFA and who meet the required standards.

2. The following documentation shall be required in support of the registration of the company with DARFA and shall be verified:

- Registration card for the DARFA Registry,
- Photocopy of the incorporation documents and company bylaws,
- Copy of the Tax Information Registry (RIF-NIT),
- Companies with foreign stockholders shall attach a copy of the company certification issued by the office of the Superintendent of Foreign Investments (SIEX),
- Copy of the identity card, passport or other documentation of stockholders, members of the board of directors and legal representatives of the company,
- Companies that have been incorporated for less than one year must attach their opening balance sheet, accompanied by the corresponding audit report signed by an independent certified public accountant,
- Statements of enrolment in obligatory social security, National Institute of Educational Training, payment of industrial and commercial permits,
- Copy of the permit to operate issued by the fire department,
- Copy of the company's fire, theft and general liability insurance policy,
- Copy of the ownership documents or rental agreement for the building,
- Resolution on operations from the Ministry of the Interior and Justice (only surveillance companies),
- Form 16, payment of registration taxes (tax stamps),
- Technical inspection of the premises where the company operates,
- Current status of operations.

Measures to control chemicals and explosives

- Companies are inspected by professional military chemicals and explosives technicians,
- Monitoring by means of a record of entry and exit of chemicals, explosives and related materials,
- Review of the files kept in the archives of the explosives division for issuing permits for transit and use (local purchase),
- Once the requested permit has been obtained, the company must send legible photocopies to DARFA on a monthly basis reporting on the consumption as entered in the registries accompanied by copies of the invoices for purchase, sale and shipping orders for its own use,
- Review of the files for granting import permits and the relevant current inspection,
- In order for the respective permits to be granted, the company must pay off with SENIAT the equivalent of 60 Tax Units,
- On inspection of the vehicles which transport chemicals and explosives in the national territory, a circulation permit valid for one year is issued, which is monitored by this Office.

Attached is a model of a communication sent to Customs informing them of authorization to import, an Import Licence and a Manual of Standards and Procedures, Nos. 3, 4 and 5 respectively.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Yes.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa`idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

This does not apply to our country.

26. Please include any additional information you believe pertinent.

The following documents are attached as annexes:

Annex No. 1: Report on the measures taken by the National Financial Intelligence Unit with regard to the terrorist organizations of Osama bin Laden, the al-Qa`idah network and the Taliban.

Annex No. 2: Model letter from DARFA to the Customs Service authorizing a company to import weapons.

Annex No. 3: Model of import authorization issued by DARFA.

Annex No. 4: DARFA Manual of Standards and Procedures.

United Nations S/AC.37/2003/(1455)/54

Security Council

Distr.: General
24 June 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 23 June 2003 from the Permanent Representative of Serbia and Montenegro to the United Nations addressed to the Chairman of the Committee

Pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003), I attach a report from the Council of Ministers of Serbia and Montenegro on the steps taken to implement and enforce mandatory measures contained in the above-mentioned resolution (see annex).

Please do not hesitate to contact me if you require any further information on any aspect of Serbia and Montenegro implementation and enforcement of resolution 1455 (2003).

(*Signed*) Dejan **Sahović**
Ambassador
Permanent Representative

03-40788 (E) 300603

Annex to the letter dated 23 June 2003 from the Permanent Representative of Serbia and Montenegro to the United Nations addressed to the Chairman of the Committee

Report on the implementation of Security Council resolution 1455 (2003)

Terrorism is an evil of global proportions that poses a major threat to international peace and security. It undermines equally the international legal order and the order of individual States. Serbia and Montenegro is committed to participating actively in the fight against terrorism and to making its full contribution to its suppression and elimination. In that context, our State union remains committed to the consistent implementation of United Nations Security Council Resolution 1455 (2003), as well as to all other United Nations Security Council resolutions and documents dealing with this issue.

Listed below are answers relevant to the implementation of UNSC resolution 1455 (2003).

It should be noted that in accordance with Security Council resolution 1244 (1999), the United Nations interim administration in Kosovo (UNMIK) is administering the Serbian Province of Kosovo and Metohija. Hence, this report does not include information concerning the implementation of SCR 1455 (2003) in Kosovo and Metohija.

I Introduction

1. The competent authorities of Serbia and Montenegro, as well as the competent authorities of its member States, the Republic of Serbia and the Republic of Montenegro, have not, so far, detected any activities in the country of Usama Bin Laden, Al-Qaida, the Taliban and their associates.

However, terrorism and related organized crime activities pose a serious threat to the country and the region as a whole. In this connection, especially threathening are the activities of Albanian extremist/terrorist groups in Kosovo and Metohija and their collusion with other similar groups in the region of South-Eastern Europe.

II Consolidated list

2. The Ministry of Defence, more specifically the General Staff of the Army of Serbia and Montenegro serves as a focal point where terrorism-related information (in its global and regional dimension) is gathered, analyzed and evaluated. Other departments and institutions which are involved in counter-terrorism activities, including those related to the 1267 Committee's list are the Ministry of the Interior and the Ministry of Finance of the Republic of Serbia and of the Republic of Montenegro, the Security/Information Agency of the Republic of Serbia, the State Security Service of the Republic of Montenegro, the Customs Administration of the Republic of Serbia and of

the Republic of Montenegro, the National Bank of Serbia, i.e. the Commission for the suppression of money-laundering.

More specifically, the Commission for the suppression of money-laundering – Department for combatting the financing of terrorism – acting in line with UN SC resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1390 (2002), 1452 (2002) and 1455 (2003), has undertaken appropriate measures in the field of its competence to implement the above resolutions. In that context, the Commission cooperates with the Department for combatting organized crime in the Ministry of the Interior of the Republic of Serbia and with the Association of Banks and other financial organizations in our country. The Commission regularly forwards the lists of terrorists and terrorist organizations subject to UN sanctions to the above authorities. The Association of Banks is under an obligation to transmit the lists of terrorists and terrorist organizations to commercial banks, including all updated information (submitted regularly by the Commission). Furthermore, the Commission for the suppression of money-laundering has informed these institutions on measures to be undertaken against individuals and entities subject to SC resolutions. These measures include:

- freezing of their assets and financial resources;
- preventing these individuals from entering or transiting the territory of the country
- preventing these individuals from obtaining military equipment and spare parts, as well as technical and advisory assistance in the field of military training.

In order to develop its own information system, the Commission for the suppression of money-laundering has set up a specialized computer system. Also, a web site has been created. Commercial banks have been provided with software enabling them to submit reports on monetary transactions on computer discs.

The National Bank of Serbia regularly transmits updated OFAC terrorist lists to all banks and other financial organizations.

The Customs Administration of the Republic of Serbia is obliged to transmit all data related to organized terrorist groups and individuals directly or indirectly connected to Al-Qaida and the Taliban to other State authorities (the Security/Information Agency, the Department of Criminal Police and the Department for combatting organized crime within the Ministry of the Interior of the Republic of Serbia and others), for further action.

The Customs Administration is currently in the process of reorganization. It is planned to set up new units for intelligence activities, counter-smuggling and customs investigation. Moreover, a new information system is under preparation which will further improve its counter-terrorism capabilities.

Similar appropriate measures have been undertaken by the competent authorities in the Republic of Montenegro, primarily by the Ministry of the Interior, the Ministry of Finance, the State Security Service and the Customs Administration of the Republic of Montenegro.

3. The State authorities often face problems of a technical nature concerning the 1267 List and its updates. Police stations and competent services at smaller border crossings lack adequate equipment (computers and computer network) that would enable them permanent access to the List and provide a single, all-inclusive information system.

Also, the Security/Information Agency is very often faced with the lack of information on an individuals origin, nationality, residence and address, date and place of birth, number of passport or aliases. Errors that occur in transcribing foreign names and aliases pose a particular problem. Since much of this data has not been verified, there is no physical description that could be helpful in identifying the designated individuals.

4. The competent authorities of Serbia and Montenegro, as well as those of its member States, have not identified any designated individuals or entities in the territory of the country, as noted under 1 above.

5. There is no information under this item.

6. So far, there have been no cases described under this item.

7. No nationals of Serbia and Montenegro have been identified on the List.

8. No attempts of recruiting or supporting Al-Qaida members, nor attempts to organize their training in Serbia and Montenegro have been registered so far.

The competent authorities have undertaken a number of practical measures to prevent terrorist activities. In this context, of particular importance are activities of special units within the Ministry of the Interior of Serbia, such as the Special anti-terrorist unit as well as the Department for combatting organized crime. The special Department of the District Court in Belgrade and Special Prosecutor's Office should soon start their work, with the aim of conducting court proceedings, establishing responsibility and enforcing sentences on the perpetrators of criminal acts, including those related to terrorism.

The Ministry of the Interior of the Republic of Montenegro has also tightened control in the territory of Montenegro and undertaken appropriate measures within its field of competencies to prevent entities or individuals from recruiting or extending support to the members of Al-Qaida in Montenegro.

The Army of Serbia and Montenegro is playing an important role in the overall anti-terrorist efforts within the country.

III Financial and Economic Assets Freeze

9. Following the signing and ratification of the International Convention for the suppression of the financing of terrorism (1999) and accession to other relevant conventions, the Criminal Law is currently being amended to harmonize it with the international conventions. *Inter alia*, financing of terrorism will be incriminated, in line with Article 2 of the UN Convention for the suppression of the financing of terrorism.

As for tracking accounts with assets possibly linked to terrorist activities, even before the amendments of the Criminal law, it was possible to seize funds designated for financing terrorism on the basis of relevant provisions of the Law on criminal procedure. Moreover, such funds may be seized even if the criminal proceedings end in non-guilty verdict, for reasons of general security or on moral grounds.

The Law on amendments of the Criminal law provides for a new type of criminal sanction – the confiscation of property of the convicted individual, without the right to restitution, within the limits defined by the Law.

According to the Law on the amendments of the Law on criminal procedure, the State Prosecutor may order the competent authority, bank or other financial institution to audit business records of certain individuals and provide the Prosecutor with documentation and data that may be used as evidence that a criminal act had been carried out or that assets were obtained through the commission of a criminal act. The Prosecutor may also request information on suspicious monetary transactions as provided for by the Convention on laundering, search, seizure and confiscation of the proceeds from crime. The State Prosecutor may also order the competent authority or organization to temporarily suspend payments, disposal of suspicious funds, stocks or assets. In addition, the court may enforce temporary seizure of assets and proceeds if there is reasonable suspicion that a criminal act of organized crime was committed.

According to the relevant provisions of the Law on the prevention of money-laundering financial resources and other assets acquired by a criminal act shall be seized in the criminal proceedings against the perpetrator of such an act.

More information on this issue had been provided in the Report to the UN SC Counter-terrorism Committee on the implementation of SC resolution 1373 (2001), as well as in the subsequent Report to the same Committee.

10. The authorities of Serbia and Montenegro and of its member States, i.e. the Ministry of the Interior of the Republic of Serbia and of the Republic of Montenegro, the Security/Information Agency of the Republic of Serbia, the State Security Service of the Republic of Montenegro, the Customs Administrations of both member States, the Commission for the prevention of money-laundering and other State authorities are in constant communication at operational level to exchange information in order to identify and investigate activities of any terrorist financial network. In order to detect suspicious transactions linked to money-laundering or financing terrorism at an early stage, the Commission for the suppression of money-laundering compiled lists of indicators that may help identify such transactions. These lists have been transmitted to banks, stock-brokers and insurance companies to ensure efficient identification of suspicious transactions and facilitate the implementation of the Law on the suppression of money-laundering.

There is also significant cooperation and coordination at the regional level with the competent State authorities of the countries of the region, within the South East Europe Cooperation Process, SECI and - on a broader level - within INTERPOL. In order to suppress organized crime in the region, an initiative has been launched to set up a regional bureau in Belgrade for the exchange of information among the ministries of the interior of SEE countries.

11. The Law on the suppression of money-laundering defines legal and physical persons that have an obligation to report suspicious transactions. The reports are submitted to the Commission for the suppression of money-laundering. On the basis of received information and data gathered by other means, the Commission evaluates whether there is reasonable suspicion that money-laundering or financing of terrorism has taken place. Should that be the case, the Commission would inform accordingly the competent judicial and internal affairs authorities.

Under the Law on the suppression of money-laundering, the following financial institutions and other agents are obliged to report suspicious transactions:

- banks and other financial institutions (Postal savings banks, Savings banks, Savings and Loan Organizations and Savings and Loan Unions);
- PTT companies, other telecommunication companies and associations;
- State authorities, organizations, foundations, and institutions, as well as other legal persons who are wholly or in part financed from public revenues;
- National Bank of Serbia;
- insurance companies;
- stock exchanges, stock brokers and others dealing with transactions related to cash, stocks, precious metals and gems, or those buying and selling assets and liabilities;
- currency exchange bureaus, pawn-shops, gambling and betting, establishments and sponsors of lotteries/sweepstakes and other games of fortune.

This Law covers other legal and physical persons (entrepreneurs) if they are connected to transactions involving assets and liabilities, management of property for third persons, leasing, factoring and forfeiting, issuance of debit and credit cards and card transactions, trade in real estate, works of art, antiquities and other valuable objects, as well as processing and trade in precious metals and gems.

So far, this Law does not cover humanitarian organizations, cultural and other non-profit and non-governmental organizations which collect and disburse funds for charitable purposes and law firms (the procedure is currently under-way to include an obligation of those persons to report suspicious transactions).

If an individual or organization listed on the basis of UN SC resolution 1267 (1999) attempts to carry out a transaction through a bank, stock broker, insurance company or other financial institution, they are obliged under the law and in line with the instructions of the Commission for the suppression of money-laundering to terminate the transaction, block financial resources and immediately inform the Commission of the following:

- the name of the company and seat of the legal person involved in the transaction; data on the employee or authorized person carrying out the transaction on behalf of the legal person;
- data on the individual involved in the transaction;
- the type and purpose of the transaction;
- the date, time, the amount of the transaction, currency and method of the transaction;
- data on property and bank deposits of persons conducting the transaction as well as other data and information related to the possible financing of terrorism.

Clients making cash deposits are obliged to present ID cards or passports to banks and other financial institutions for the purpose of establishing their identity. The clients are required to provide proof of their identity in the following cases:

- if they wish to open an account or establish any kind of regular business cooperation;
- for any monetary transaction (involving cash, foreign currency, securities, precious metals or gems) exceeding 600,000 dinars (approximately

10,000 euros), or insurance policy deeds exceeding premiums of 40,000 dinars;
- several connected transactions whose total value exceeds 600,000 dinars;
- for transactions involving smaller amounts if there is reasonable suspicion that money-laundering may be in question.

Banks are required to submit to the Commission for the suppression of money-laundering information on deposits of 600,000 dinars (approximately 10,000 euros) or bigger amounts. The Commission then feeds this information into its data base, analyzes them and, as appropriate, sends them to the Ministry of the Interior of the Republic of Serbia or Tax Police if there is reasonable suspicion that money-laundering is involved.

12. Upon the appropriate review, it has been confirmed that none of the individuals or institutions from the terrorist list compiled according to resolutions 1267, 1333 (2000) and 1373 (2001) or those listed in para 2 of resolution 1390 have accounts in Serbia and Montenegro.

The cases of organized financial crime detected so far in the territory of Serbia and Montenegro do not indicate any links with persons or organizations connected to the Al-Qaida financial network or individuals and organizations supporting them.

13. See response under 12 above.

14. See reply under 11.

IV Travel Ban

15. The relevant authorities of Serbia and Montenegro and those of its member States, undertake appropriate measures to prevent the terrorists from entering or transiting our territory.

In order to reinforce control at border crossings, border-control units have been placed on higher alert, operating procedures have been upgraded to facilitate efficient passport control, including passenger and baggage checks, etc. Special attention is paid to persons originating from countries that may be involved in harboring terrorist organizations, who must apply for visas which are granted selectively through a thorough review process.

In line with relevant provisions of the Law on the movement and residence of foreigners, a visa or a tourist pass shall not be issued to a foreign national, nor will he/she be permitted to enter the country, if he/she had committed a crime against humanity and international law, if he/she is listed as an international offender in the records of the competent authority and in other cases relevant to the protection of public order and defense interests of the country. A foreign national shall not be granted a temporary residence in the country if he/she provided false personal information, used a forged passport, used someone else's passport or gave his/her passport to another person. A foreign national who entered the country illegally and has no refugee status and has not been granted asylum shall not be granted temporary residence in the country. Temporary residence may be revoked to a foreign national for the purpose of the protection of public order or national defense concerns. The Law stipulates that the

competent authority may temporarily impound a foreign passport, *inter alia,* for reasons of protection of public order or in the interest of the defence of the country.

See a more detailed reply in the Report on implementation of resolution 1390 (operative para 2 b).

It should be recalled that the competent State authorities in charge of controlling the borders do not, pursuant to UN SC resolution 1244 (1999), exercise control, over the part of the State border (295 km) in the territory of Kosovo and Metohija (administered by UNMIK and controlled by KFOR) with the Republic of Macedonia and the Republic of Albania.

16. See reply provided under 2 above.

17. Notwithstanding some technical problems mentioned under 3 above, the updated list is being transmitted to border control authorities on a regular basis.

18. No listed individuals have been identified at our border points, nor in transit through our territory.

19. According to the standard procedure for issuance of visas, consular missions and offices at the Embassies of Serbia and Montenegro transmit visa applications through the Ministry of Foreign Affairs of Serbia and Montenegro to the Ministries of the Interior of the Republic of Serbia and of the Republic of Montenegro, for approval. The List is not transmitted to the consular offices, but checks are made by the Ministries of the Interior of the Republic of Serbia and of the Republic of Montenegro.

V Arms embargo

20. The Ministry of Defense of Serbia and Montenegro closely follows trade in arms and military equipment, checking end-user certificates and the final destination of arms and military equipment for each approved export. No individuals and legal persons connected to any terrorist organizations were involved in transactions dealing with arms and military equipment sales.

Following the terrorist attacks against targets in the USA, the Customs Administration, in full cooperation with the competent security services, informed its customs points in September 2001 that organizational, personnel, technical and other measures have been introduced in order to prevent that commodities which may be used in terrorist attacks be brought in the country. The measures include special procedures to check both passenger baggage and goods shipments.

So far, customs officials have not discovered any commodities that may have been related to the Taliban and Al-Qaida.

21. See reply under 22 below.

22. Replies already submitted concerning the implementation of UN SC resolution 1390 (operative para 2, c) as well as the second Report to the Security Council Counter-terrorism Committee for implementation of resolution 1373 (sub-para 2), provide a detailed answer to this question. It should be noted, however, that all the

laws referred to in these documents remain in force after the Constitutional Charter of Serbia and Montenegro was adopted in February 2003.

Export licenses for arms and military equipment are granted upon the evaluation of submitted requests in terms of potential terrorist risks. Special measures are taken to prevent direct or indirect supply, sale and transfer of arms and military equipment to individuals, organizations and institutions listed according to para 2 of resolution 1390 (2002), and to all others that may be linked to terrorism or support it in any way.

The Law on the production and trade in arms and military equipment and the Regulation on the transport of arms and military equipment stipulate that the Ministries of the Interior shall issue licenses for transport of arms and military equipment across the territory of the country, on the basis of a similar license previously granted by the Ministry of Defense.

Licenses for transport of arms and ammunition across the State border and for transit within the country are granted by the Ministry of the Interior after a review by the Ministry of Foreign Affairs and the Ministry of Defense, as stipulated by the Law on the crossing of the State border and movement in border areas.

The Law on transport of hazardous substances stipulates that the Ministry of the Interior shall be responsible for the issuance of licenses for transport of explosive substances over the State border or across the country's territory (import, export, transit). Licenses contain information on the sender, manufacturer, shipping agent and end-user, as well as a list of mandatory precautionery measures including a designated route with police escort.

The import and export of explosive substances, arms and ammunition which are not designated for the purposes of armed forces, i.e. are not considered arms and military equipment, is carried out on the basis of licenses granted by the Ministry for Foreign Economic Relations. These licenses contain specific data on all individuals or entities involved in the trade and are granted on the basis of the decision of the Inter-departmental Commission for the issuance of licenses for import and export of sports and hunting arms and ammunition and materials for their manufacture, pursuant to the Law on foreign trade.

Special security measures are enforced in all the above instances of international trade in arms and explosives.

The current system of export control for small arms and light weapons regulates procedures for the submission of all relevant documents (from the application phase to license approval) to the Council of Ministers of Serbia and Montenegro. The Council of Ministers considers each individual application and related documentation. The final decision is made in consultation with the Minister of Defense, Minister for Foreign Affairs and Minister for Foreign Economic Relations.

In addition, pursuant to the Law on arms and ammunition, licenses for acquiring fire arms shall not be granted to persons convicted of the crime of terrorism.

23. See the reply under 22 above.

VI Assistance and conclusion

24. Serbia and Montenegro stands ready to join international efforts against terrorism and extend assistance to other countries, especially in the context of regional cooperation and within our limited resources.

25. As discussed above, there are serious problems of material and technical nature which impede the provision of timely information to the border crossings of Serbia and Montenegro. In order to establish a permanent and full access to the List and its updates, it is necessary to make investments to upgrade the technical capabilities. In that sense, appropriate assistance would be most welcome.

26. It is necessary to point out that since the deployment of international civilian and security presences in Kosovo and Metohija in accordance with SC resolution 1244 (1999), a substantial number of terrorist attacks by extremist Albanian elements in Kosovo and Metohija against Serbs and other non-Albanians have been recorded in the Province. The attacks, which took a heavy toll in human life and caused severe material destruction, were aimed at intimidating the population and expelling non-Albanians from Kosovo and Metohija. Such extremist and terrorist acts have a potential to destabilize other parts of the Balkans. Finally, under the direct influence of extremist and terrorist Albanian groups in Kosovo and Metohija, with their logistic and material support (manpower, equipment and training), terrorist acts were perpetrated in parts of southern Serbia as well.

United Nations S/AC.37/2003/(1455)/55

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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 23 June 2003 from the Permanent Representative of the Hashemite Kingdom of Jordan to the United Nations addressed to the Chairman of the Committee

I have the honour to enclose herewith Jordan's report on steps taken to implement the measures imposed by Security Council resolution 1455 (2003).

(*Signed*) Zeid Ra'ad Zeid **Al-Hussein**
Ambassador
Permanent Representative

03-41855 (E) 110703 110703

Enclosure

[Original: Arabic]

Report of the Hashemite Kingdom of Jordan to the Security Council Committee established pursuant to resolution 1267 (1999) on the implementation of Security Council resolution 1455 (2003)

Introduction

For many decades the Hashemite Kingdom of Jordan has followed a firm policy based on prohibiting any terrorist activity or organization in, or originating in, Jordanian territory. The Al-Qa'idah organization did make attempts to threaten our national security and stability but those attempts failed, as stated in Jordan's report to the Security Council Committee established pursuant to resolution 1373 (2001), and many sentences were handed down in respect of Al-Qa'idah. The Government of the Hashemite Kingdom of Jordan has also taken many immediate steps to implement the measures imposed by Security Council resolution 1455 (2003) in accordance with the laws and regulations in force in the Kingdom, as specified below.

The consolidated list and the freezing of financial assets

Following the issuance of Security Council resolution 1455 (2003), the Minister of Finance, by letter No. 12/3/16/2908 dated 3 April 2003, circulated to the Customs Department the names of individuals and entities included in the consolidated lists, and requested them to prohibit the customs clearance of goods being imported and exported, to impound them in their current condition and to provide any information in connection with them. In addition, the Governor of the Jordanian Central Bank issued a circular (10/2/3/3/3386 dated 9 March 2003) emphasizing the implementation of the provisions of article 93 of the Banking Code (No. 28 of 2000) and directives (No. 10/2001 dated 5 August 2001) to combat money-laundering concerning the obligation to obtain full information from official documents. On the opening of a bank account for a natural person, the responsible official must retain a copy of those documents and also to ascertain the address of the person and his place of residence and work. In the case of non-Jordanian citizens, it is also necessary to ascertain the address of the person in his country of permanent residence.

The identity and legal status of legal persons are verified by means of the required documents such as certificates issued by the Ministry of Industry and Trade and by Chambers of Commerce. The official certificate of incorporation issued by the competent foreign authorities must also be obtained if the firm is registered abroad, together with the names and addresses of the partners. In the case of a joint stock company, the names and addresses of any shareholders owning more than 5 per cent of the capital of the company must be obtained.

As far as charitable associations are concerned, a check is made using the required documents and supporting information. In the case of an account being opened by correspondence, the sending bank must be asked to make a proper authentication of the signature. Additionally, the Ministry of the Interior monitors the financial resources of charitable societies by means of the Charitable Societies

and Associations Act in force. Where an account is opened by proxy, the existence of a proper power of attorney must be verified. The opening of accounts for fictitious persons, or by correspondence for persons resident in the same State, is not permitted. The bank must also verify the identity of any person who does not have an account at the bank and who wishes to cash cheques whenever the sum to be transacted is 10,000 dinars or more.

With respect to the preparation of a list of frozen assets, no movable or immovable property belonging to individuals or societies listed has been found. The Securities Commission wrote to the bodies concerned (letter No. 8/8/930 dated 7 April 2003) but it turned out that there were no shares belonging to the individuals and societies included in the consolidated list.

Similarly, no accounts were found belonging to any of those listed, including funds derived from property owned or controlled directly or indirectly by persons acting either on their behalf or at their direction. Moreover, the Ministry of Finance is represented in the Customs Department and directly monitors precious metals and jewels, such as gold and diamonds, entering or leaving Jordan.

Travel ban

With respect to the ban on travel from or to the territory of the Kingdom, the competent authorities take note of the names in the consolidated list and continuously circulate them to all frontier posts and crossing points which are linked to the computerized data system. The public security bodies in the Kingdom implement the legislation on the residence and immigration of aliens, carry out the surveillance of frontier posts and ensure that admission to the Kingdom is not granted to any foreign traveller who does not have an authentic entry visa and an official travel document.

With respect to the measures taken concerning asylum-seekers, the Council of Ministers is competent under the Constitution to examine applications for political asylum and is required to scrutinize all information concerning the asylum-seeker, including his security record, in order to ensure that the right is not abused and that asylum is not granted to anyone who is not entitled to it. It is understood that if, following the grant of asylum, it is proved that the person has a connection with criminal activities, the Council of Ministers has absolute competence to rescind the grant of asylum.

Weapons ban

The Arms and Ammunition Act prohibits the carrying or acquisition of firearms except by the Jordanian armed forces and public security personnel. Under this Act, the transport, manufacture and trafficking of such weapons is prohibited. Article 11 (a) of the Act provides as follows:

> "(a) Any person who, in an unlawful manner, manufactures, imports, obtains, transports, sells or brokers the purchase or sale of any gun or automatic weapon without a licence for the purpose of its use shall be liable to execution, and the weapon shall be confiscated."

With regard to the prohibition of the circulation and possession of nuclear weapons or radioactive sources used in the manufacture of such weapons, the Government, as a result of its cooperation with the International Atomic Energy

Agency (IAEA), has promulgated a special act regulating issues relating to the use of nuclear energy. The Act on Nuclear Energy and Radiation Protection (No. 29 of 2001) provides as follows:

> "Any person is prohibited from setting up, operating or administering a nuclear installation in the Kingdom, or circulating, importing, using, exporting, dealing in, obtaining, trafficking in, operating, leasing, transporting, stockpiling, destroying or disposing of any radioactive sources or any substances emitting ionizing radiation. This includes research, pulverization, fission or fabrication."

Any person contravening this provision shall be liable under the law to a term of imprisonment of between one year and three years and to a fine of between 20,000 and 30,000 dinars.

In conclusion, the Government of the Hashemite Kingdom of Jordan wishes to affirm its ongoing full commitment to permanent cooperation with the Security Council Committee established pursuant to resolution 1267 (1999) in the implementation of the resolutions of the Security Council, including resolution 1455 (2003), through cooperation and consultation with all States and international organizations in the framework of the international efforts to eliminate terrorism and terrorist organizations.

United Nations S/AC.37/2003/(1455)/56

Security Council

Distr.: General
10 July 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 10 July 2003 from the Permanent Representative of the Lao People's Democratic Republic to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of the Lao People's Democratic Republic to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to his note of 7 March 2002, has the honour to submit hereby the report by the Government of the Lao People's Democratic Republic to the Sanctions Committee established pursuant to Security Council resolution 1267 (1999).

03-42767 (E) 180703

Annex to the note verbale dated 10 July 2003 from the Permanent Representative of the Lao People's Democratic Republic to the United Nations addressed to the Chairman of the Committee

Report by the Government of the Lao People's Democratic Republic to the Committee established pursuant to Security Council resolution 1267 (1999)

The Lao People's Democratic Republic attaches great importance to cooperation with other countries and the United Nations, particularly the 1267 Committee and the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001), in combating terrorism. In order to achieve common objectives and to comply with paragraph 6 of Security Council resolution 1455 (2003), as well as to implement measures imposed by paragraph 4 (b) of Security Council resolution 1267 (1999), paragraph 8 (c) of Security Council resolution 1333 (2000) and paragraphs 1 and 2 of Security Council resolution 1390 (2002), the Government of the Lao People's Democratic Republic has taken the following measures:

1. The Lao People's Democratic Republic actively cooperates with the international community in the fight against terrorism. It has posted the list of terrorists established by the 1267 Committee in the national operation networks such as the police, banking institutions, immigration control and consular authorities in order to screen individuals and groups of individuals associated with them and freeze their properties.

2. The Lao People's Democratic Republic does not have laws and regulations aimed specifically at preventing and suppressing the financing either directly or indirectly of terrorist acts, individuals and entities. However, the Lao People's Democratic Republic has appropriate measures to control and freeze the properties of terrorists. For example, the Bank of the Lao People's Democratic Republic has issued Order Number 307/BL, dated 11 December 2001 to all commercial banks operating ir the Lao People's Democratic Republic to check for accounts and incoming aad outgoing financial transactions involving terrorist individuals and organizations as presented in the list provided by the United States Embassy in the Lao People's Democratic Republic. The result of the checking of banks has disclosed that no funds nor assets in the bank or through the banking network in the Lao People's Democratic Republic are associated with terrorists or used to support terrorists activities.

3. The Lao People's Democratic Republic keeps tight control on immigration. The Ministry of Security of the Lao People's Democratic Republic has issued an Order to all Security Authorities nationwide to strengthen the screening measures for foreigners entering the Lao People's Democratic Republic, to prohibit a persona non grata and any individuals listed as international terrorists from entering the country and to closely monitor individuals and organizations involved in terrorist acts. All immigration checkpoints throughout the country are closely monitoring terrorist groups and their associated organizations. To date, the control process has disclosed no individuals, entities or organizations suspected of being involved in, or carrying out terrorist acts in the Lao People's Democratic Republic.

4. Being a small and least developed country, the Lao People's Democratic Republic does not produce or supply any weapons. It does not permit the use of its territory to transport, trade or transfer any types of weapon or related materials to any terrorist groups and organizations associated with terrorist acts. The Penal Law of the Lao People's Democratic Republic prohibits the purchase and sale of firearms. Any person found in contravention of the law shall be punished.

The report by the Government of the Lao People's Democratic Republic to the Counter-Terrorism Committee on the implementation of Security Council resolution 1373 (2001) has referred to the above-mentioned laws.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 9 July 2003 from the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to the latter's note dated 4 March 2003, has the honour to submit Malaysia's national report pursuant to paragraph 6 of the Security Council resolution 1455 (2003) (see annex).

03-42695 (E) 210703

Annex to the note verbale dated 9 July 2003 from the Permanent Mission of Malaysia to the United Nations addressed to the Chairman of the Committee

Report in fulfilment of United Nations Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

On the basis of available information and investigations undertaken, domestically and in cooperation with foreign law enforcement authorities, Malaysia believes that neither Al-Qaida nor Usama Bin Laden nor their associates are conducting activities in Malaysia.

Nevertheless, Malaysia is mindful of the potential terrorist threat to the region and will continue to exert all efforts, together with regional and international law enforcement authorities, in eliminating any potential threats.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

Administrative and legal measures have been taken to comply with the 1267 Committee's List. The follow-up actions required are being undertaken under several of Malaysia's laws, including the Exchange Control Act 1953, the Labuan Offshore Financial Services Authority Act 1996, the Anti-Money Laundering Act 2001, the Immigration Act 1959/1963 and the Customs Act 1967. The List and its updates are circulated to the concerned agencies for their appropriate action in a timely manner.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

Malaysia has not encountered any implementation problem with regards to the names and identifying information of individuals, groups or entities currently included in the List.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

None of the designated individuals or entities have been identified in Malaysia.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

None

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

None

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

None

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The 1267 Committee's Consolidated List (List) is incorporated into the financial system through circulars issued by the Governor of Bank Negara Malaysia, as the Controller of Foreign Exchange under section 44 of the Exchange Control Act 1953. These circulars instruct all licensed financial institutions and licensed offshore financial institutions to freeze funds of individuals and entities in the List that are in their custody. These circular letters take effect immediately upon issue. New circulars are issued as and when there is an update or change in the List.

All licensed financial institutions are under the regulation and supervision of Bank Negara Malaysia and the Governor of Bank Negara Malaysia is also the Controller of Foreign Exchange.

The Internal Security Act 1960 is used to prevent any activities prejudicial to security in Malaysia, including subversion and organized violence against persons and property. This is the principal legislation used in the suppression of terrorist activities in the country.

III. Financial and economic asset freeze

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

The Governor of Bank Negara Malaysia, as the Controller of Foreign Exchange, issued circulars under section 44 of the Exchange Control Act 1953. These circulars instruct all licensed financial institutions and licensed offshore financial institutions to freeze funds of individuals and entities on the List that are in their custody. These circular letters take effect immediately upon issue. New circulars are issued as and when there is an update or change in the List.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

Framework

Malaysia adopts a non-integrated approach for its anti-money-laundering regime under the Anti-Money Laundering Act 2001 (AMLA). The legal framework under the Act provides for multi-agency implementation by the Financial Intelligence Unit (FIU), the regulatory and supervisory authorities of reporting institutions as well as the relevant law enforcement agencies (see chart 1).

The anti-money-laundering mechanism is used to track terrorist financing by incorporating sections 125 and 125A of the Penal Code as money-laundering predicate offences under the Act. Any funds collected to be utilized for the purpose of waging war against any power in alliance with His Majesty the King or for the harbouring or attempting to harbour any person in Malaysia or person residing in a foreign State at war or in hostility against His Majesty the King are considered proceeds of crime and any attempt to deal with them are considered to be money-laundering offences. The term "harbour" stipulated in section 125A of the Penal Code is defined in section 130A of the Penal Code as follows:

> *"harbour" includes supplying a person with shelter, food, drink, money or clothes; or, except by a person employed in a Government hospital, medicine, bandages, surgical dressings or any other form of aid to a person wounded; or arms, ammunition or means of conveyance, or assisting a person in any way to evade apprehension.*

The definition of the term "harbour" set out above covers the act of supplying a person with, among others, money, that is, the financing of terrorism.

The reporting institutions specified under the Anti-Money Laundering Act are obliged to report any suspicious transactions, including transactions relating to offences under sections 125 and 125A of the Penal Code, to the Financial Intelligence Unit of Bank Negara Malaysia. The Unit will perform preliminary analysis and determine if the information needs to be shared with the relevant enforcement agencies for further investigation.

Supervisory authorities are required to report to the Unit any information received from any reporting institutions relating to transactions or activities that could be related to any unlawful activity or serious crime, including terrorist financing. Supervisory authorities are empowered under the Act to adopt the necessary measures to prevent or avoid having any person who is unsuitable from controlling, or participating, directly or indirectly, in the directorship, management or operation of the reporting institutions. Supervisory authorities could also issue guidelines to assist reporting institutions in detecting suspicious transactions among their customers.

Part V of the Anti-Money Laundering Act confers extensive investigation powers on the relevant law enforcement agencies having the power to enforce the law relating to any of the 150 serious offences listed in the Second Schedule to the

Act. For example, the Royal Malaysian Customs may investigate the money-laundering offence relating to smuggling under the Customs Act 1967. Bank Negara Malaysia may investigate the money-laundering offence relating to illegal deposit taking under section 25 of the Banking and Financial Institutions Act 1989.

The Financial Intelligence Unit is established within Bank Negara Malaysia to carry out its functions as the competent authority under the Anti-Money Laundering Act. All suspicious transactions detected by the reporting institutions are reported to the Unit. The Unit shares the details of such suspicious transactions with the relevant domestic law enforcement agencies. In addition, the Unit is able to share the details of suspicious transactions with the corresponding authority of a foreign State if there exists an arrangement with the foreign State. On 29 January 2003, the Unit executed a Memorandum of Understanding (MoU) with Australian Transaction Reports and Analysis Centre (AUSTRAC), the Australian financial intelligence unit for the sharing of financial intelligence.

Coordination

In respect of terrorist financing tracking, the National Coordination Committee to Counter Money Laundering (NCC) was established to facilitate inter-agency cooperation and coordination. The Committee was established in April 2000 to enhance cooperation among domestic agencies involved in the fight against money-laundering and terrorist financing. Bank Negara Malaysia is the lead agency for the Committee that consists of 12 other Ministries and government agencies. The Deputy Governor of Bank Negara Malaysia, in charge of the Financial Intelligence Unit, is the chairman of the Committee. The Unit, being the Committee's secretariat, regularly updates Committee members on other countries' experiences in combating money-laundering, reviews existing investigative processes and fine-tunes the national anti-money-laundering programme. Committee members are as follows:

- Anti-Corruption Agency
- Attorney General's Chambers
- Bank Negara Malaysia
- Companies Commission of Malaysia
- Inland Revenue Board
- Labuan Offshore Financial Services Authority
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Home Affairs
- National Drugs Agency
- Royal Malaysian Customs
- Royal Malaysian Police
- Securities Commission

The Committee's objectives are as follows -

- Develop national policy measures to counter money-laundering

- Coordinate national policies with regional and international initiatives
- Agree on an action plan to counter money-laundering in Malaysia
- Ensure Malaysia complies with its Asia/Pacific Group on Money Laundering membership requirements and paragraph 15 of the United Nations Political Declaration and Action Plan Against Money Laundering to have anti-money-laundering legislation in place by year 2003
- Develop and ensure proper implementation of measures to counter money-laundering based on internationally accepted standards, i.e. the 40 Recommendations of the Financial Action Task Force on Money Laundering (FATF)
- Identify and remedy any overlap or discrepancy between the existing and proposed measures to counter money-laundering
- Monitor the effectiveness of measures that have been implemented
- Liaise with foreign Governments and international organizations or bodies on matters relating to money-laundering, including terrorism.

Besides the National Coordination Committee to Counter Money Laundering, an inter-agency committee led by the Ministry of Foreign Affairs meets regularly to review the various United Nations resolutions relating to international terrorism and to make appropriate recommendations concerning Malaysia's accession to the United Nations conventions and protocols on international terrorism. To date, Malaysia has signed or is a party to the following conventions and protocol:

Counter-Terrorism Convention	*Status*
Convention on Offences and Certain Other Acts Committed on Board Aircraft	Implemented through the Aviation Offences Act 1984
Convention for the Suppression of Unlawful Seizure of Aircraft	Implemented through the Aviation Offences Act 1984
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	Implemented through the Aviation Offences Act 1984
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation	Signed on 24 February 1988 but not ratified yet

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama Bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

The Ministry of Foreign Affairs informs and circulates the Consolidated Lists issued by the United Nations Security Council Committee established pursuant to

resolution 1267 (1999) to the relevant authorities including Bank Negara Malaysia. The working framework in responding to the United Nations Security Council resolution is depicted in chart 2.

The Controller of Foreign Exchange is empowered under section 44 of the Exchange Control Act 1953 to freeze transactions in bank accounts, if the Controller is satisfied that, owing to the changes in the external or internal position of any country or territory, action is being, or is likely to be, taken to the detriment of the economic position of Malaysia. The Exchange Control Act 1953 empowers the Controller to prohibit a licensed institution from complying with the directions of a foreign Government or a customer to move its or his funds or to carry out any transaction in relation to an account in Malaysia unless the written permission of the Controller has been obtained.

To date, the Controller has issued nine circulars to all licensed financial institutions and licensed offshore financial institutions to freeze the funds and financial resources, including funds derived or generated from property owned or controlled, directly or indirectly, by Usama Bin Laden, the Al-Qaida organization or the Taliban and other individuals, groups or entities associated with them as listed in the United Nations Security Council resolutions 1267 (1999) and 1390 (2001).

In response to the circulars issued by the Controller of Foreign Exchange, every financial institution would run queries against their database to check for the listed individuals and entities. If there is a match, the financial institution needs to immediately freeze the accounts and related financial assets and inform the Controller accordingly. At the same time the financial institution will report the details of such findings as suspicious transactions reports (STRs) to the Financial Intelligence Unit of Bank Negara Malaysia. The Unit analyses the reports and may request for additional information, where necessary, after which the report would be submitted to the Royal Malaysian Police (RMP) to initiate investigation on the individuals and entities involved.

All licensed financial institutions are required to conduct customer due diligence. The following guidelines are issued in relation to customer due diligence:

Guidelines on Money Laundering and "Know Your Customer Policy" (BNM/GP9) (see attachment 1)

The Guidelines were issued by Bank Negara Malaysia to the banking institutions in September 1989 and revised on 27 December 1993 to ensure compliance with the Financial Action Task Force's 40 Recommendations through customer identification and verification, financial record-keeping and mandatory reporting of suspicious activity. These Guidelines were issued to prevent Malaysian banking institutions from being used as a conduit for money-laundering. It requires banking institutions to determine the true identity of customers opening accounts or conducting transactions relating to any other services, to develop a "transaction profile" of each customer, and sets document retention policies with the objective of identifying suspicious transactions. Banking institutions are also required to identify a single reference point within their organization that will report promptly to Bank Negara Malaysia any unusual or suspicious transactions, irrespective of the amount.

Minimum Guidelines on the Provision of Internet Banking (see attachment 2)

Bank Negara Malaysia issued the Minimum Guidelines on the Provision of Internet Banking Services on 1 June 2000 requiring banking institutions to have face-to-face interaction with customers prior to the opening of accounts or the extension of credit. Banking institutions are also required to establish appropriate measures to identify customers reached over third-party web sites and the customer verification process should be as stringent as that for face-to-face customers. In providing Internet banking services, banking institutions are also required to implement monitoring and reporting mechanisms to identify potential money-laundering activities.

Guidelines on Anti-Money Laundering for the Insurance Industry (JPI/GP27) (see attachment 3)

The guidelines were issued by Bank Negara Malaysia to the insurance industry on 25 April 2001. Among others, the guidelines specify guiding principles on customer identification, record-keeping requirements, recognition and reporting of suspicious transactions and training of staff.

Guidelines on Money Laundering and "Know Your Customer Policy" for The Labuan Offshore Financial Services Authority (see attachment 4)

Guidelines similar to Bank Negara Malaysia/GP9 were issued to Labuan Offshore Banks.

Code of Banking Practice (issued by the Association of Banks in Malaysia) (see attachment 5)

This code similarly incorporates customer due-diligence practices.

Rule 3.4.3 (3) of the Rules of Kuala Lumpur Stock Exchange on "Know Your Customer" (see attachment 6)

Stockbrokers are required to implement and maintain appropriate guidelines for their dealer's representatives to assist them in learning essential facts about their clients' background, including the clients' investment objectives, knowledge and experience in dealing in securities, financial background and any other information required by the exchange. This requirement includes the process of opening and maintaining the central depository account (CDS) for clients by stockbrokers. These rules are provided with statutory backing and strengthened through section 11 of the Securities Industry Act 1983, which allows for the stock exchange and the Securities Commission to take a range of actions against persons who fail to comply with this rule. To ensure compliance, the Securities Commission and the Stock Exchange conduct on-site examinations on the stockbrokers.

Rule 603.1 of the Rules of the Malaysian Derivatives Exchange (MDEX) (see attachment 7)

Before commencing a trade in contracts for or on behalf of any client, the futures broker, who is a trading member, must exercise due diligence with regard to ascertaining clients' details, including their investment objectives and financial situation, and to retain a record of such information. Securing such information is necessary before a compliance officer can open the client's account for trading

purposes. Where a person who is under an obligation to comply with the above rules but fails to comply with any of those business rules, the Securities Commission is empowered under section 11A of the Futures Industry Act 1993 (FIA) to apply to the court for an order for such compliance. It should also be highlighted that, before making any recommendation to its client, a futures broker is obligated under section 52B(2) of the Act to take into account his client's investment objectives, financial situation and particular needs. Failure to comply with this requirement entails criminal liability and upon conviction shall be liable to a fine up to RM 1million or imprisonment for a term not exceeding 10 years, or both. As in the case of the securities market highlighted above, the Securities Commission and MDEX conduct on-site examination on the futures brokers from time to time to ensure compliance with the law.

Enforcement of requirement

The supervisory role of Bank Negara Malaysia was strengthened further to ensure that financial institutions have sufficient controls in place to prevent their institutions from being abused by money launderers and from, as a result, being subject to concentration, legal and reputational risks. In this regard, Bank Negara Malaysia conducts on-site examinations on banking institutions and insurance companies to assess the adequacy and effectiveness of their anti-money-laundering policies, procedures, systems and controls that have been put in place to ensure that they will be able to comply with the requirements of the Anti-Money Laundering Act. The scope of the examinations encompasses an assessment of the anti-money-laundering infrastructure, the institution's compliance with its own internal policies and procedures, the identification of account holders, monitoring of transactions, record-keeping, as well as the detection and reporting of unusual and suspicious transactions. It also includes an assessment of the training and awareness programmes for employees, an internal audit of the anti-money-laundering initiatives, as well as the roles and responsibilities of the anti-money-laundering compliance officer. These anti-money-laundering infrastructures and procedures enable financial institutions to be equipped to identify suspicious customers, report suspicious transactions to the Financial Intelligence Unit and assist the law enforcement authorities through providing an audit trail.

In ensuring that the above tasks are effectively carried out, examiners, who are specially trained in the area of anti-money-laundering, undertake the examinations of the anti-money-laundering initiatives of the financial institutions. The examinations on anti-money-laundering activities are based on international best practices, as advocated by international bodies such as the Basel Committee on Banking Supervision.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution.

This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**

- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**

- **the value of assets frozen.**

The domestic and offshore licensed financial and banking institutions have been directed to freeze any funds or financial assets belonging to Usama Bin Laden, members of the Al-Qaida organization, the Taliban and other individuals, groups or entities associated with them pursuant to resolution 1390 (2002). To date, no funds or other financial assets or economic resources belonging to individuals, groups or entities referred to in resolution 1390 (2002), or funds derived from property owned or controlled, directly or indirectly, by them in this country have been frozen, as none have been found.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Not relevant in view of the fact that no relevant assets or funds have been frozen.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

- **Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated.**

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Suspicious Transaction Reports (STR)

The Anti-Money Laundering Act came into force on 15 January 2002. As at 28 February 2003, the reporting of suspicious transaction, as required in Section 14(b) of the Act has been invoked on 1040 reporting institutions, including financial institutions.

Section 14(b) of the Act sets the statutory obligation for all officers and employees of reporting institutions (including financial institutions) to report **any** suspicious transaction. Should there be **reason to suspect** any transaction as being related directly or indirectly to any of the serious offences, or foreign serious offences, a reporting institution has to file an STR to the Financial Intelligence Unit. There are currently 150 serious offences listed under the Second Schedule to the Act. The information to be included in the STR would comprise information on the person conducting the transaction, information on the account holder or beneficiary of the transaction, details of the transaction, and a description of the suspicious transaction.

Failure to report any suspicious transaction, to the Unit is an offence under the Act and shall upon conviction be liable to a fine not exceeding RM100,000 or to imprisonment for a term not exceeding 6 months, or both.

The workflow for the reporting of STRs is documented in chart 3. Once a reporting institution detects any suspicious transaction, an STR would be raised and submitted to the Unit. Upon receipt of the STR, the Unit would check against their database to identify if there is any previous STR filed against the same individual or entity or associates. At the same time, the STR would be uploaded or entered into the database. If necessary, the Unit may request additional information from the respective Government agencies. For example, information on vehicles involved would be requested from the Road Transport Department and information on companies involved would be requested from the Companies Commission of Malaysia. In addition, the Unit would gather further intelligence that is considered necessary to enhance the information held.

Once it is determined that the intelligence should be shared with the Law Enforcement Agency (LEA), the Financial Intelligence Unit would conduct discussion with the Agency. In the course of discussion more information may be gathered before the report is finalized. The finalized report will be disseminated to the respective Agency. The documentation involved throughout this process will then be filed for future reference.

The request for information submitted by the Agency undergoes the similar process as the STR.

Cross-border Wire Transfer Transactions

All transaction between residents and non-residents are to be recorded as follows:

- *Forms Payment (P) and Receipt (R)*

With effect from 1 April 2003, forms P and R are to be completed for all transactions that are individually valued at RM50,001 and above (or its equivalent in foreign currency).

• *Statements Bulk Payment (BP) and Bulk Receipt (BR)*

With effect from 1 April 2003 all transactions that are individually valued at between RM5,001 and RM50,000 are recorded in the bulk registers.

• *Statements E (External Accounts), F (Foreign Currency Accounts) and M*

All transactions between residents and non-residents that are individually valued at RM5,000 and below would continue to be reported as "Transactions of RM5,000 and below" in either Statements E or F, while remittances of RM5,000 and below made by foreign workers should be reported in Statement M.

Late submission or failure to ensure correctness of forms/statements will render the licensed banking institution liable to a maximum fine of RM50,000 or to imprisonment for a term not exceeding 6 months, or both, under the Bank Negara Malaysia Act 1958; or to a fine not exceeding RM10,000, or to imprisonment for a term not exceeding 3 years, or both, under the Exchange Control Act 1953.

Cross-border currency reporting

Resident travellers are required to obtain the approval of the Controller of Foreign Exchange and declare in the Travellers Declaration Form when they carry into or out of Malaysia more than RM1,000 and carry out of Malaysia foreign currency notes and/or travellers cheques exceeding the equivalent of RM10,000. Non-residents are free to bring in any amount of foreign currency and/or traveller's cheques but must declare in the Embarkation Card issued by the Immigration Department any amount in excess of the equivalent of US$ 2,500. Non-residents must also declare any amount exceeding RM1,000 brought into or out of Malaysia. Any person contravening this legal prohibition is, upon conviction, liable to a fine of RM10,000 or not less than 10 times the amount of smuggled money under Section 135 of the Customs Act 1967. Smuggled money seized will be forfeited to the Federal Government under Section 128 of the Customs Act 1967, if there is no claim within one month from the date of seizure and there is no prosecution of the offender.

With regard to gold, the Exchange Control (Gold Exemption) Order 1986 allows persons in Malaysia to hold, buy, borrow, sell, lend or export gold. Hence, there is no restriction for any person in Malaysia to bring gold into or out of Malaysia.

Provisions for regulating informal banking (hawala)

In Malaysia, informal banking networks are prohibited by virtue of section 4 of the Banking and Financial Institutions Act 1989 (BAFIA), which requires any person who wants to carry on a banking business to apply for a licence from Bank Negara Malaysia. A person who contravenes this section shall be liable, upon conviction, to imprisonment for a term not exceeding 10 years or to a fine not exceeding RM10 million, or to both. Section 10 of the Exchange Control Act 1953 (ECA) prohibits any person from carrying on the business of remitting money or in kind outside Malaysia except with the permission of the Controller of Foreign Exchange. Under paragraph 7 (2) of the Fifth Schedule to the Act, anyone who contravenes section 10 shall be liable, upon conviction, to a fine not exceeding RM10,000 or to imprisonment for a term not exceeding 3 years, or to both. Section 30(1) of the Money-Changing Act 1998 prohibits licensed money-changers from

remitting or transferring funds outside Malaysia. Nevertheless, a licensed money-changer may, on its own behalf, remit or transfer funds outside Malaysia through an authorized dealer. A licensed money-changer who contravenes this section shall be guilty of an offence and upon conviction be liable to a fine not exceeding RM100,000.

IV. Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Immigration Department keeps its personnel updated on the Lists issued by the United Nations.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The right of entry of a person depends on his or her ability to fulfil certain requirements at the point of entry, and the decision made by an immigration officer at the entry checkpoint. The person has to be cleared from the Department's suspects' list. The entry of a visa holder may be refused if it is found that there are reasonable grounds for a refusal of entry.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The Malaysian Immigration Department is in the process of implementing the Advanced Passenger Information (API) System as required by the Asia-Pacific Economic Cooperation Organization (APEC). The API System would enable immigration authorities in Malaysia to prevent criminals or suspected terrorists from entering or leaving the country via electronic exchanges of information.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

The Immigration Department has yet to identify any listed individual at the border checkpoints.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa issuing authorities identified any visa applicant whose name appears on the List?

The Immigration Department keeps its personnel at entry/exit points and Consular offices updated on the Lists issued by the United Nations. The relevant authorities have yet to identify any visa applicant whose name appears on the List.

V. Arms embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Arms Act 1960 and Firearms (Increased Penalties) Act 1971 provide for the regulation of firearms possession, sales, repairs, trade and brokering, importation and exportation. Possession of firearms is only allowed by license issued by the Royal Malaysian Police (RMP). Permits for the importation or exportation of firearms are also issued by the RMP.

The importation, exportation and general movement of nuclear material is also strictly regulated under the Atomic Energy Licensing Act 1984.

A list of prohibited items, including arms and other dangerous items, is also enforced under the Customs Act 1967, where the Minister of Finance is empowered to prohibit the importation into or exportation from Malaysia, either absolutely or conditionally, or from or to any specified country, territory or place outside Malaysia of specified items.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

All firearms brokers in the country have to apply for licences to carry out their businesses and the personal particulars of purchasers of firearms from these brokers are recorded in a logbook by each broker. Hence, tracing of individual owners of firearms can be done by the authorities when needed.

Any person found in possession, custody or control of any arms or ammunition without an arms licence or fails to comply with the arms licence commits an offence under the Arms Act 1960 and is liable to imprisonment for up to 7 years or to fine of up to RM100,000 or both.

Further, under the Firearms (Increased Penalties) Act 1971, a person trafficking in firearms shall be punished with death or imprisonment for life and with whipping of not less than 6 strokes, while a person in unlawful possession of a firearm shall be punished with imprisonment, which may extend to 14 years and with whipping of not less than 6 strokes.

The importation or exportation of prohibited goods contrary to such prohibition is criminalized under the Customs Act 1967 and is punishable -

(a) in the case of the first offence, by a fine of not less than 10 times the value of the goods or RM50,000, whichever is the lesser amount, and of not more than 20 times the value of the goods or RM100,000, whichever is the greater amount, or to imprisonment not exceeding 3 years or to both; and

(b) in the case of the second or subsequent offence, by a fine of not less than 10 times the value of the goods or RM100,000, whichever is the lesser amount, and of not more than 50 times the value of the goods or RM500,000, whichever is the greater amount, or to imprisonment not exceeding 5 years or to both.

However, if the value of the goods cannot be ascertained, the penalty may amount to a fine not exceeding RM500,000 or to imprisonment for a term not exceeding 5 years or to both.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

With reference to the responses given to questions 20 and 21, Malaysia's arms/arms broker licensing system is one of the most stringent in the world, with substantial penalties imposed in the event of contravention, including the death penalty. Further, the issue of arms licences and arms broker licences are strictly regulated by the Royal Malaysia Police.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama Bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

At present, the manufactures of small arms and ammunition in Malaysia that number only a few companies and produce only for the use of the armed forces in Malaysia. If the situation arises, a manufacturer who proposes to export small arms or ammunition abroad would need to apply for a specific licence from the Minister for Home Affairs. The proposed country of destination of such exportation would be scrutinized by the Minister before such licence is granted.

VI. Assistance and conclusion

24. and 25. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

In enhancing the implementation of measures contained in the resolutions, Malaysia welcomes the proposals on the provision of assistance to and from other States.

26. Please include any additional information you believe pertinent.

None

United Nations S/AC.37/2003/(1455)/58

Security Council

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14 July 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 14 July 2003 from the Permanent Mission of Turkmenistan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Turkmenistan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report of Turkmenistan prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003 (see annex).

03-42755 (E) 230703 240703

Annex to the note verbale dated 14 July 2003 from the Permanent Mission of Turkmenistan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report in implementation of Security Council resolution 1455 (2003)

The present report has been prepared in accordance with paragraphs 6 and 12 of Security Council resolution 1455 (2003) for submission to the Committee established pursuant to resolution 1267 (1999).

In order to implement the provisions of Security Council resolution 1455 (2003), Turkmenistan undertook effective and exhaustive measures to coordinate activities among the corresponding competent bodies concerning the questions dealt with in the aforementioned document.

In accordance with the guidance for reports required of all States pursuant to paragraphs 6 and 12 of resolution 1455 (2003), no activities by Usama bin Laden, al-Qa'idah, the Taliban movement or their accomplices have been noted in Turkmenistan. A consolidated list was sent to the corresponding ministries and departments, including the Consular Office of the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the Ministry of National Security, the State Border Service, the State Customs Service and the Central Bank of Turkmenistan.

Section on the financial and economic asset freeze

The Act of 8 October 1993 on currency regulation (articles 7, 8, 9 and 16), which determines the legality of banking operations conducted in foreign currency, serves as the legislative basis in Turkmenistan for freezing assets. The Act is a document which establishes general principles for conducting currency operations in the country's domestic economic turnover and international transactions, the authority and functions of State bodies in currency regulation and the administration of currency resources, the rights and obligations of residents and non-residents with regard to the ownership, use and disposal of foreign currency; foreign currency control; and liability for violating currency laws.

In addition, the Instructions to Banks in the Territory of Turkmenistan (hereinafter, the Instructions) adopted by the decision of the President of Turkmenistan of 7 January 2002 on measures to regulate foreign currency operations in Turkmenistan is a very important document that regulates the legality of operations involving foreign currency.

Accordingly, foreign currency operations may not be conducted in Turkmenistan without complying with the requirements of this law and other normative legal acts of Turkmenistan. In this way, Turkmenistan has provided for the possibility of tracing the legality of the origin of assets, thereby preventing the penetration of illegal capital into its territory and illegal operations with foreign currency in its State.

Furthermore, on the basis of a letter from the Central Bank of Turkmenistan, restrictions on releasing cash assets from depositors' accounts if such assets are received in non-cash form from commercial structures have been introduced, and restrictions have been placed on non-cash operations if the funds are received from anonymous accounts on demand, which has limited the uncontrolled movement of funds. In addition, in accordance with the aforementioned Instructions, anonymous accounts of physical persons who are residents or non-residents of Turkmenistan may be opened for a period of not less than six months; anonymous accounts receive foreign currency only in cash, and the balance in the account must not exceed $10,000 (or the equivalent in another currency). In this way, a restriction has been placed on the non-cash transfer of funds to anonymous accounts and the accumulation of large sums of monetary assets in such accounts.

To date, obstacles linked to the legal basis regulating the freezing of accounts have not arisen in Turkmenistan's domestic legislation.

The Instructions provide for the need to present documents confirming the origin of foreign currency in order to transfer funds from and to Turkmenistan. Moreover, foreign currency is transferred from Turkmenistan within the limits of the sums specified in documents confirming the legality of foreign currency formation. In cases involving the transfer of funds in excess of the established amount which is systematic in nature, the authorized bank is obliged to require that the physical person present documents confirming the source of such funds or the valid basis for receiving them. In addition, current account operations are carried out on the basis of the corresponding documents for depositing funds, which makes it possible to trace their movement in the territory of Turkmenistan.

In cases where money transfers in freely convertible currency exceed the sum of $5,000 (or its equivalent in another foreign currency) and/or are systematic in nature, and the overall sum of such transfers over a period of three months amounts to $15,000, the authorized bank is obliged to require from the physical person documents confirming the source of such funds or the valid basis for receiving them.

In accordance with article 40 of the Act on the Central Bank of Turkmenistan of 8 October 1993, the Central Bank bears responsibility for drawing up regulations and provisions concerning foreign currency operations.

With regard to a "comprehensive summary of frozen assets", according to the lists submitted in accordance with resolutions 1267 (1999), 1333 (2001) and 1390 (2002), no accounts of listed individuals were detected on the basis of the information provided by banks in Turkmenistan in response to the official enquiry of the Central Bank.

Banks are informed through the Central Bank of Turkmenistan, which, having received information from competent sources, notifies the country's banks about the need to suspend operations through accounts in accordance with the lists provided.

Within the framework of implementing Security Council resolutions, corresponding measures have been undertaken to prevent and suppress possible cases of the financing of terrorist acts. In compliance with international norms and in order to prevent and suppress the financing of terrorism, banks and other financial institutions in Turkmenistan are provided with information on persons and organizations that are linked with terrorist activities with instructions to freeze the

accounts of persons and organizations in accordance with paragraph 2 (a) of resolution 1390 (2002).

In order to implement measures relating to the competence of the Central Bank of Turkmenistan, provided for under paragraph 8 (c) of Security Council resolution 1333 (2000), paragraph 4 (b) of resolution 1267 (1999) and paragraph 2 (a) of resolution 1390 (2002), a check was carried out of the accounts of the Bank's clients, during which no funds or financial resources were detected, including funds received or derived from property owned or under the direct or indirect control of the Taliban movement or any other enterprise controlled by the Taliban movement, funds or other financial assets of Usama bin Laden and physical or legal persons which, as established by the Counter-Terrorism Committee, or linked with him, including funds and assets of al-Qa`idah, or funds received or derived from property owned or directly or indirectly controlled by Usama bin Laden and his accomplices.

If financial resources or other funds of the aforementioned persons or groups are detected, the Bank will take all the measures provided for under the aforementioned paragraphs of the resolutions in question, such as:

1. The immediate freezing of funds and other financial assets of these persons, groups, enterprises and organizations, including funds received from property owned or directly or indirectly controlled by them or owned or directly or indirectly controlled by persons acting on their behalf or on their orders;

2. Ensuring that neither these nor any other funds or financial assets are used in the interests of these persons by citizens of Turkmenistan or other persons in the territory of Turkmenistan;

3. Immediately transmitting, to the bodies authorized to inform the Counter-Terrorism Committee, the corresponding information such as, for example, the type of assets frozen, account numbers and currency value of such frozen assets.

In order to prevent any physical or legal persons from opening accounts, the State Bank for Foreign Economic Activities of Turkmenistan has established unified requirements for basic documents. In accordance with the Act of 18 June 1996 on the consular institutions of Turkmenistan abroad, work is being conducted in close cooperation with the consular services of Turkmenistan in the area of requiring legalization of documents in the manner established under the law. If one of the requirements is not complied with, the Bank has the right not to allow a client to open an account.

In dealing with a client's account, the Bank monitors the regularity of payment operations, which makes it possible to regulate foreign currency flows.

Under Turkmenistan's normative legal acts concerning the movement across the customs border of jewellery and precious metals, such items are assayed in the State Assay Office of the Central Bank of Turkmenistan, and an excise duty amounting to 15 per cent of the customs value is levied when they are imported into the customs territory of Turkmenistan.

The Committee's consolidated list was incorporated into the financial system by transmitting the list to all of Turkmenistan's banks with the instruction to suspend all operations in the accounts of listed individuals.

Section on the travel ban

In accordance with the resolution under consideration, Turkmenistan took additional measures to enhance the effectiveness of border control and control over the issuance of personal identity documents and transit documents in order to prevent the movement of terrorists or terrorist groups. More careful verification and stricter registration are being carried out at entry points, and lists of persons who are refused a visa and entry into the territory of Turkmenistan are systematically circulated.

In accordance with article 24 of the Act of 8 October 1993 on the legal situation of foreign nationals in Turkmenistan, a foreign national may be denied entry into Turkmenistan by the Ministry of Foreign Affairs or the Ministry of Internal Affairs, and also on submission by the Ministry of National Security and, where necessary, in coordination with other interested bodies of the State administration:

1. In the interest of ensuring national security or protecting public order;

2. If this is necessary in order to protect the rights and legitimate interests of citizens of Turkmenistan and other persons;

3. If, during a previous stay in Turkmenistan, he was found to have violated laws on the legal status of foreign nationals in Turkmenistan or customs and currency laws and also if he engaged in propaganda activities that ran counter to the interests of Turkmenistan;

4. If, when applying for an entry visa, he provided false information about himself or did not provide the necessary documents;

4.1. If the person previously committed a criminal offence in the territory of Turkmenistan;

5. On the basis of other grounds laid down under the legislation of Turkmenistan.

In accordance with article 25 of the aforementioned Act, a foreign national may be denied the right to leave Turkmenistan by the Ministry of Foreign Affairs or the Ministry of Internal Affairs, and also, on submission by the Ministry of National Security and, where necessary, in coordination with other interested bodies of the State administration:

1. If there are grounds for instituting criminal proceedings against him, prior to the end of the court case;

2. If he is convicted of committing an offence, prior to completion of the sentence or release from serving a sentence;

3. If his departure runs counter to the interests of national security, prior to the end of the validity of the circumstances preventing his departure;

4. If there are other circumstances set forth under Turkmenistan's legislation that prevent his departure.

The departure of a foreign national from Turkmenistan may be postponed until he complies with property requirements that are connected with the vital interests of

citizens of Turkmenistan and other persons and State, cooperative or other public organizations.

Article 28 of this Act sets forth the grounds under which liability is incurred for an offence; for example, foreign nationals who have committed a crime or an administrative or other violation in the territory of Turkmenistan are subject to liability on a general footing with citizens of Turkmenistan and in accordance with its legislation. In accordance with article 31 of the Act, a foreign national may be expelled from Turkmenistan:

1. If his actions run counter to the interests of ensuring national security or protecting public order;

2. If this is necessary in order to protect the health and morality of the population or protect the rights or legal interests of citizens of Turkmenistan and other persons;

3. If he has flagrantly violated the laws on the legal status of foreign nationals in Turkmenistan, or the customs, currency or other laws of Turkmenistan.

A decision to expel a person from Turkmenistan is taken by the internal affairs agencies. A foreign national must leave Turkmenistan within the period indicated in the decision. Persons seeking to avoid leaving in such cases are subject, with approval of the Public Prosecutor, to detention and forcible expulsion. Detention is permitted in such cases for the period required for expulsion.

In accordance with the regulations on the procedure for granting permanent residence permits in Turkmenistan, approved under the decision of the President of Turkmenistan of 28 August 2002, a foreign national or stateless person may be denied a residence permit in Turkmenistan:

(a) If he has committed a crime against humanity;

(b) If he has committed a grave offence or if criminal proceedings have been instituted against him;

(c) If his residence in the territory of Turkmenistan runs counter to Turkmenistan's national security interests or may breach the State order or cause moral harm to the population of the State;

(d) If he is infected with HIV/AIDS, a venereal disease or other illness included in the list drawn up by the Ministry of Health and the Medical Industry of Turkmenistan, or is a drug addict;

(e) If he knowingly provides false information in order to obtain a residence permit in Turkmenistan;

(f) If a restriction was placed earlier on his entry into Turkmenistan, until the expiry of the period of the restriction.

A residence permit in Turkmenistan is deemed invalid and is cancelled, if the person in question:

(a) knowingly provided false information when applying for a residence permit;

(b) has been found guilty under a court sentence of having committed a grave premeditated offence;

(c) causes well-founded fears with regard to a breach of public order or constitutes a threat to the State's national security interests;

(d) is a member of a terrorist, anti-State, extremist or other criminal organization;

(e) has been in the military service or other State service of a foreign State, except in cases when this is provided for under the international treaties of Turkmenistan;

(f) is enrolled in an institution for drug-abuse treatment.

In order to improve the State administration in the area of migration and enhance monitoring of compliance with legislation in force concerning the entry, exit and stay of foreign nationals and stateless persons in Turkmenistan, the President of Turkmenistan issued a decree establishing the State Service for the Registration of Foreign Nationals, which has the responsibility for monitoring the entry, exit and stay of foreign nationals and stateless persons in Turkmenistan.

In order to ensure the further regulation of the entry, exit and stay of foreign nationals in Turkmenistan, register foreign nationals and stateless persons according to their place of residence and enhance the monitoring of their compliance with Turkmenistan's legislation, the President of Turkmenistan issued a decree on improving the procedure governing the entry, exit and stay of foreign nationals in Turkmenistan, and the Commission for Monitoring the Issuance of Permits was also established on 6 February 2003.

Additional personnel were assigned to the Visa and Registration Section within the Passport and Census Department of the Ministry of Foreign Affairs of Turkmenistan at the same time, in order to improve the monitoring of the procedure governing the entry, exit and stay of foreign nationals and stateless persons in the territory of Turkmenistan.

In order to prevent crimes related to terrorism, the Ministry of Foreign Affairs, within the framework of its functions, conducts ongoing operational and preventive work which is also designed to detect persons and their circle of acquaintances who are inclined to engage in terrorist activities. Firmly condemning international terrorism as a terrible evil directed against all mankind and an attempt to undermine the basis of contemporary civilization, Turkmenistan endeavours to strengthen cooperation with the world community in combating international terrorism. Cooperation on the part of State bodies involved in combating terrorism is conducted with the counter-terrorist agencies and services of foreign States on the basis of bilateral (multilateral) agreements, including those of an interdepartmental nature. The conclusion of such agreements is the basis for conducting operational and investigative measures, taking procedural steps and searching for persons who have committed terrorist crimes and so forth. Under the Protocol on Cooperation between the Security Councils of Turkmenistan and the Russian Federation, signed on 3 January 2003, agreement was reached on the possibility of joint actions by the two countries.

Section on the arms embargo

A special section to combat terrorism and organized crimes operates within the Ministry of Internal Affairs of Turkmenistan. One of its tasks is to prevent and suppress terrorist activities as well as individual terrorist acts and to combat terrorism in the interest of ensuring State security.

In accordance with the Ministry of Internal Affairs permit system, preventive checks are systematically carried out of the ownership, use and transport of firearms and explosive, poisonous and radioactive substances.

The permit system (for the ownership, use and transport of weapons), implemented by the internal affairs agencies of Turkmenistan, also covers army threaded-barrel combat weapons and weapons manufactured on special order (including deactivated weapons), training and large calibre sport weapons (7.62 mm calibre and larger), small calibre threaded-barrel hunting weapons (including small calibre and smooth-barrel firearms, ammunition for such weapons, and cold-steel bladed weapons (hunting knives, sabres, dirks, daggers, etc.), belonging to organizations and citizens, except for those in the Ministries of Defence, Security and Internal Affairs and also the State Border Service of Turkmenistan.

A single procedure for obtaining, registering and owning hunting weapons has been introduced in Turkmenistan. Smooth-barrel and threaded-barrel hunting weapons are sold to citizens on the basis of permits issued by the internal affairs agencies. Persons who are members of hunting and fishing associations have the right to acquire such weapons.

A special check is carried out of citizens who wish to acquire smooth-barrel hunting firearms before a permit is issued to them.

Hunting firearms acquired by citizens must be registered within 10 days in the internal affairs agencies in the owners' place of residence along with the acquisition of a permit to own the weapon for three years followed by subsequent re-registration. Ammunition and gunpowder are obtained by citizens in specialized stores that sell hunting firearms in accordance with established norms and only upon presentation of a hunting permit and a permit issued by an internal affairs agency to own such types of weapons.

An armed guard accompanies the centralized transport of firearms and ammunition. The transport of firearms and ammunition in hand luggage is carried out on the basis of a permit issued by the internal affairs agencies. Firearms, except for army weapons, and cartridges for them are cleared for import and export across the State border of Turkmenistan by the customs bodies on the basis of permits issued by the Ministry of Internal Affairs.

In the course of their daily activities, Turkmenistan's law enforcement agencies, in accordance with national legislation and their jurisdiction, conduct measures to prevent the illegal delivery, sale or transfer of weapons and other military equipment.

Turkmenistan's legislation has established customs barriers for the import into and export from its territory of weapons, ammunition, materiel and special spare goods and materials for their production, explosive substances, nuclear materials (including materials in the form of fuel assemblies), sources of ionizing objects,

technology and special equipment which may be used to create weapons and materiel.

Under the Penal Code of Turkmenistan, approved by the Act of 12 June 1997 on the approval and enactment of the Penal Code of Turkmenistan, smuggling, in accordance with article 254, is defined as:

1. The transport in large quantities across the customs border of Turkmenistan of goods or other objects in respect of which special regulations have been established governing transport across the customs border of Turkmenistan, except for the goods and objects indicated in paragraph 3 of this article, which is carried out without the knowledge of or in concealment from customs control or with the fraudulent use of documents or customs identification methods or which is accompanied by a failure to declare goods or a false declaration, shall be punished by a fine of 25 to 50 times the average monthly wage or by corrective work for up to two years or imprisonment for up to three years with or without confiscation of property.

2. The acts provided for under paragraph 3 of this article which are carried out:

(a) Repeatedly;

(b) By a group of persons acting on the basis of prior agreement or by an organized group;

(c) By a public servant using his official position or by a person exempt from customs control;

(d) With the use of force against a person conducting customs control,

Shall be punished by imprisonment for two to five years with or without confiscation of property.

3. Transport across the customs border of Turkmenistan of narcotics; psychotropic, virulent, toxic, poisonous, radioactive or explosive substances; arms; explosive devices; firearms or ammunition; nuclear, chemical, biological and other types of weapons of mass destruction; materials and equipment which may be used to create weapons of mass destruction and in respect of which special regulations have been established governing transport across the customs border of Turkmenistan; strategically important raw materials; valuable cultural objects in respect of which special regulations have been established governing transport across the customs border of Turkmenistan, if these acts are committed without the knowledge of or in concealment from customs control or with the fraudulent use of documents or customs identification methods or are accompanied by a failure to declare goods or a false declaration of goods,

Shall be punished by imprisonment for three to eight years with or without confiscation of property.

4. The acts provided for under paragraph 3 of this article .which are committed:

(a) Repeatedly;

(b) By a group of persons on the basis of prior agreement or by an organized group;

(c) By a public servant using his official position or by a person exempt from customs control;

(d) With the use of force against a person conducting customs control,

Shall be punished with imprisonment for 5 to 10 years with or without confiscation of property.

Note:

The acts provided for in paragraph 3 of this article are deemed to be committed on a large scale if the value of the goods being transported exceeds the amount of 30 times the average monthly wage.

Section XII of the Penal Code establishes criminal liability for offences against public security and health.

Article 287. The illegal acquisition, sale, ownership, transport, sending or bearing of weapons, ammunition, explosive substances or explosive devices

1. The illegal acquisition, sale, ownership, transport, sending or bearing of firearms, ammunition, explosive substances or explosive devices shall be punished by imprisonment for up to five years.

2. The same act committed by a group of persons on the basis of prior agreement or repeatedly shall be punished by imprisonment for two to seven years.

3. The acts provided for under paragraphs 1 and 2 of this article committed by an organized group or a criminal association shall be punished by imprisonment for 5 to 10 years.

4. The illegal sale or bearing of daggers, Finnish knives or other cold-steel weapons, including throwing weapons, as well as the illegal sale of gas pistols, cylinders or other gas weapons shall be punished by a fine in the amount of 25 to 50 times the average monthly wage or by corrective work for up to two years or by imprisonment for up to two years.

Note:

A person who voluntarily surrenders objects indicated in this article shall be exempt from penal liability if the acts that he has committed do not include any other type of offence.

Article 288. The illegal manufacture of weapons

1. The illegal manufacture or repair of firearms or spare parts for them, as well as the illegal manufacture of ammunition, explosive substances or explosive devices shall be punished by imprisonment for up to three years.

2. The same acts, committed by a group of persons on the basis of prior agreement or repeatedly shall be punished by imprisonment for two to five years.

3. The illegal manufacture of gas weapons, daggers, Finnish knives or other cold-steel weapons, including throwing weapons, shall be punished by corrective work for up to two years or imprisonment for up to three years.

Note:

A person who has voluntarily surrendered objects indicated in this article shall be exempt from criminal liability if the acts that he has committed do not include any other type of offence.

Article 290. Improper fulfilment of obligations to protect weapons, ammunition, explosive substances and explosive devices

The improper fulfilment of his obligations by a person who has been entrusted with the protection of firearms, ammunition, explosive substances or explosive devices, if this results in their theft or destruction or other grave consequences,

Shall be punished by corrective work for a period of up to two years or imprisonment for up to two years.

Article 291. Theft or extortion of weapons, ammunition, explosive substances and explosive devices

1. The theft or extortion of firearms, spare parts for them, ammunition, explosive substances or explosive devices shall be punished by imprisonment for three to eight years.

2. The same acts, if they are committed:

(a) By a person to whom weapons, ammunition, explosive substances or explosive devices were entrusted in connection with his official position or under his protection;

(b) Repeatedly;

(c) By a group of persons on the basis of prior agreement;

(d) With the use of force that does not endanger human life or health,

Shall be punished by imprisonment for 5 to 10 years.

3. If the acts provided for under paragraphs 1 and 2 of this article are committed with the use of force that endangers human life or health, by an organized group or a criminal association, they shall be punished by imprisonment for 8 to 15 years.

More detailed information on the measures undertaken by Turkmenistan in combating terrorism is set forth in the national report of Turkmenistan submitted in implementation of Security Council resolution 1390 (2002).

United Nations S/AC.37/2003/(1455)/59

Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 15 July 2003 from the Permanent Mission of the Czech Republic to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Czech Republic to the United Nations in New York presents its compliments to the Chairman of the Security Council Committee established pursuant to Security Council resolution 1267 (1999) and with reference in particular to paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003 has the honour to submit herewith an updated report of the Czech Republic on all steps taken to implement the measures referred to in paragraph 1 of Security Council resolution 1455 (2003) and all related investigations and enforcement actions (see annex).

03-43083 (E) 210703

Annex to the note verbale dated 15 July 2003 from the Permanent Mission of the Czech Republic to the United Nations addressed to the Chairman of the Committee

Report in fulfilment of United Nations Security Council resolution 1455 (2003)

I. Introduction

1. **Please provide a description of activities, if any, by Usama Bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

No open activities connected with the above-mentioned persons or organizations have been registered in the Czech Republic. Only cases of hoaxes (where the perpetrators identified themselves as members of the Taliban or al-Qaida) and cases where their actions and views have been endorsed, especially by students from Muslim countries and the domestic extremist scene (left- and right-wing), have been reported. These manifestations culminated at the end of 2001.

However, al-Qa'idah organization remains a threat on a global scale which must not be underestimated, especially in connection with the Czech Republic's involvement in the current anti-terrorism campaign. The Czech Republic Police Force, in close cooperation with the intelligence services of the Czech Republic and other States, is continuing its attempts to monitor and intercept any activity on the territory of the Czech Republic and minimize the risk of an attack or any other undesirable action by this organization on the territory of the Czech Republic or against the interests of the Czech Republic abroad.

II. Consolidated List

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs, and consular authorities?**

On 1 March 2000, Act No. 48/2000, on measures in relation to the Afghan movement, the Taliban, was passed, and on 4 April 2000, Act No. 98/2000, on the implementation of international sanctions to maintain international peace and security, was passed. The Czech Republic Government promulgated Decree No. 164/2000, on measures in relation to the Afghan movement, the Taliban, on 7 June 2000, and Decree No. 327/2001, on further measures in relation to the Afghan movement, the Taliban, on 22 August 2001 in order to implement the first of the Acts mentioned above.

The texts of Government Resolution No. 164/2000 and Government Resolution No. 327/2001, on measures in relation to the Afghan movement, the Taliban, impose a duty to implement sanction measures against the Taliban in accordance with Security Council resolution 1267 (1999) and No. 1333 (2000) and pursuant to decisions of the relevant Sanctions Committee.

These steps, which are rather of a foreign-policy and international-law nature, should be understood in the context of their close association with other domestic measures. For example, recourse against the unlawful conduct of legal persons

which can be qualified as the funding of terrorism can be handled under current legislation in the form of "other administrative delicts", the individual qualified facts of which are regulated in special legal regulations. At present, the legal framework for the penalization of legal persons in connection with support of terrorism is composed of "sanctions legislation", i.e. Act No. 48/2000, Act No. 98/2000, and international conventions.

In the wake of 11 September 2001, the Central Crisis Team of the Czech Republic decided to gather lists of persons and organizations subject to sanctions in connection with terrorism, as published by the United Nations Security Council and the Council of the European Union, at the Financial Analysis Unit of the Ministry of Finance. This unit analyses and distributes these lists in the framework of the financial sector, the Czech Republic Police Force and the intelligence services.

This year (2003), an administrative-law working group and criminal-law working group, composed of representatives of the State administration, are forming a new legislative framework for an optimal method to be implemented for the transformation and practical enforceability of sanctions lists and other requirements of the United Nations, European Union and other international bodies, by whose decisions, regulations, and recommendations the Czech Republic is bound and which relate to the struggle against terrorism, with a special emphasis on the financing thereof, where the penalization of such unlawful conduct does not fall within the jurisdiction of criminal law.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.**

Within the framework of the Police Headquarters, the lists received are proof-read, a process which requires the precise transcription of the names of persons and organizations. Another problem which is important to resolve on a global scale is the addition of photographic material, i.e. photographs of the persons in question and, where possible, their fingerprints, to accompany the textual database.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

No.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or al-Qa`idah that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

The Czech Republic is submitting no additional names.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.**

No, but the Clearing House working group covers this issue on a theoretical level in anticipation of any action. (This group was established in autumn 2002, based on an initiative of the Financial Analysis Unit of the Ministry of Finance. The aim of the group is to contribute to coordination and the exchange of information between individual bodies active in the struggle against money-laundering and the financing

of terrorism, and to ensure that output in an international context is uniform. The group's meetings are attended by representatives of the Ministry of Finance, the Ministry of the Interior, including the Czech Republic Police Force, the Czech National Bank, the Czech Banking Association, the Ministry of Justice and the Ministry of Foreign Affairs.)

The group met twice in 2002, and so far has met twice in 2003. The specific aim of the group is to try and analyse the processes applied by other States that have been confronted with these circumstances.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

No.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa'idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa'idah training camps established in your territory or in another country.**

The Penal Code does not recognize the body of the crime of recruitment to terrorist groups or membership of a terrorist group. Under Section 34(g) of the Penal Code, however, a general aggravating circumstance for a perpetrator of a crime is a situation where this perpetrator committed the crime as an organizer, member of an organized group, or as a party to a conspiracy because, under Section 3(4) of the Penal Code, such a circumstance carries significance when the degree of danger of the crime posed to society is assessed (the material element of the crime). The Penal Code contains provisions penalizing the organization of crime, aiding and abetting, including the procurement of means (Section 10 of the Penal Code), actual participation in a criminal conspiracy, including the support thereof (Section 163a of the Penal Code), inciting another to commit a crime (Section 164 of the Penal Code), etc. An attempt to commit a crime is punishable, as is preparation for a crime in the case of serious crimes.

III. Financial and Economic Assets Frozen

Under the sanctions regime (paragraph 4(b) of resolution 1267 (1999) and paragraphs 1 and 2(a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

Note: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. **Please describe briefly:**

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

The basic framework provision for the implementation of international sanctions in Czech law is Act No. 98/2000, the General Sanctions Act. In the scope of this Act, the Government may promulgate a decree appointing or regulating prohibitions and other restrictions in a manner corresponding to a decision of the United Nations Security Council and the Council of the European Union, including in the area of financial restrictions. Before this general provision was drawn up, Act No. 48/2000 entered into force; this offers an analogous framework provision, but only in relation to the Afghan movement, the Taliban. Pursuant to this Act, Government Decrees No. 164/2000 and No. 327/2001 were promulgated. They laid down the duty of implementing sanction measures against the Taliban in accordance with Security Council resolutions 1267 (1999) and 1333 (2000).

Both the above-mentioned legislative provisions are, however, designed for the implementation of sanctions regimes against entities or persons having a link to a specific State territory. As soon as the Taliban was defeated by the allied coalition and its activities ceased to be linked to the territory of Afghanistan or any other territory, which the international community responded to by United Nations Security Council resolution 1390 (2002), lifting sanctions against Afghanistan and only preserving sanctions related directly to the Taliban and its representatives, Government Decrees No. 164/2000 and 327/2001 were no longer sufficiently operative. This is because Czech legislation is based on the traditional concept of international sanctions used hitherto on the international scene, i.e. a concept where the entity on which sanctions were imposed was always a State, and therefore the sanctions were related to the territory of that State. This was the territorial application of sanctions. However, after 11 September 2001, in the sphere of the existing sanctions system, the concept of a new mechanism for sanction measures emerged, i.e. the imposition of sanctions against persons who are connected with terrorist activities but where a specific State territory or membership of a specific State does not feature as a common denominator.

Therefore, the Czech Republic is intensively seeking a solution to this situation. One possibility is an amendment of Act No. 98/2000, transforming it into a framework provision for the implementation of international sanctions aimed not only against States, insurgent movements, or other organized force and the citizens or members thereof, but also against separate natural and legal persons who are connected with terrorist activities where no international-law entity is the primary subject of penalization. In this way, two different sanctions regimes could be linked — the classic sanctions regime applied against the subjects of international law, and the new regime, focused primarily against natural and legal persons. Another possibility is to form a new framework legal provision at the level of an Act, which would be used as the basis for the promulgation of Government decrees implementing international sanctions only against natural or legal persons who are associated with terrorism. This would be a new anti-terrorism sanctions law.

In order to find an adequate solution, an administrative-law working group and criminal-law working group were established. Please see No. 2 above.

A remaining issue is the relationship of sanction lists, or restrictive measures against listed persons, to the concept of basic human rights, e.g. the right to a fair trial.

The Czech Republic signed the International Convention for the Suppression of the Financing of Terrorism in 2000. The Government is due to be presented with the draft of the new Penal Code in June 2003. This bill and the related legislation have been prepared so that they can be used for the full implementation of the obligations contained in the Convention and concerning the penalization of legal persons and their assets in connection with the financing of terrorism. Subsequently, on 30 September 2003, the Government is to be presented with information about measures that will make it possible to ratify the International Convention for the Suppression of the Financing of Terrorism, adopted under General Assembly resolution No. 54/109 of 9 December 1999.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

Joint reply to questions 10 and 11

I) The legislative framework of the Czech Republic does not refer to the financing of terrorism as such as a crime. This crime is considered participation in a crime, the commission of which is financed or otherwise supported. The specific terms of the sentence and type of penalty depend on the penal sanctions of the crime which has been financed (terror under Section 93, sabotage under Section 95, endangering the safety of an aircraft or vessel under Section 180a, aircraft hijacking under Section 180c, etc.).

The basic legal document safeguarding defence in the Czech Republic against money-laundering (recently also applied against the financing of terrorism) is Act No. 61/1996, on certain measures against the legalization of proceeds from crime, as amended.

The systems of banks, with regard to the fight against money-laundering, are subject to inspection by the banking supervisory body of the Czech National Bank. The Banking Association issued Banking Activity Standards No. 4 of 2000 — Internal principles and procedures to prevent the legalization of proceeds from crime in banks, which lay down in more detail the possible procedures to be applied by banks to identify transactions and clients, including cases of credit.

There have been breakthroughs overriding the principle of banking secrecy, which include the obligation to make data available pursuant to a court order and the duty of banks to submit reports to the Financial Analysis Unit of the Ministry of Finance, which occupies itself with financial crime in accordance with Act No. 61/1996, on certain measures against the legalization of proceeds from crime, as amended. Under Section 6 of this Act, a client order may be delayed for a maximum of 72 hours, which is the period the Act provides to the Financial Analysis Unit of the Ministry of Finance to investigate a suspicious transaction and submit a report in the given case. If circumstances are discovered within this time limit which indicate that a crime may have been committed, a complaint is lodged. The financial institution (e.g. bank) where the assets have been frozen is notified of this fact and as of that moment the financial institution is obligated not to execute the client's order for a period of a further three days so that the police authorities can take action to block the account further. If the Financial Analysis Unit of the Ministry of Finance does not file a complaint, the financial institution is not obliged under the law to postpone the execution of the client's order any longer (e.g. an order to withdraw or transfer financial assets).

Under legislation in force, all financial institutions must, inter alia, identify any transaction of more than CZK 500,000 (1 United States dollar is equal to approximately CZK 28), in the case of banks the amount is CZK 100,000 (the Banks Act), and in the case of exchange offices, as set by Czech National Bank Regulation No. 1/2000, on the execution of transactions involving values in foreign exchange, this limit is CZK 20,000.

In addition, the law makes it a duty to examine all transactions (regardless of their financial value) for suspicious signs. In cases of suspicious transactions, the financial institution is obliged to identify the parties to the transaction and submit a report to the Financial Analysis Unit of the Ministry of Finance (this also relates to credit transactions, which are always subject to prior identification of the client). Under measures issued by the Czech National Bank, banks are obliged to identify the purpose of payments on client accounts to and from abroad.

Where a financial institution has good reason to suspect that a party to a transaction is acting in its own name on behalf of a third person, or is concealing that fact that it is acting on behalf of a third person, the institution shall attempt to discover the identity of the third persons based on the information available to it or, as far as possible, shall take steps to discover their identity (Section 2(5) of Act No. 61/1996).

A financial institution is obliged, on request and within a time limit set by the Ministry, to disclose information to the Ministry about transactions which are subject to the obligation of identification and in respect of which the Ministry conducts investigations, to submit documentation about these transactions, or to enable the delegated employees of the Ministry to have access to such documents when investigating reports or running checks, and to supply information about the persons who are party, in any capacity, to such transactions (Section 8(1) of Act No. 61/1996).

Criminal-law sanctions for financing terrorism are graded depending on the merits of the case they relate to. In cases of the legalization of proceeds from crime and conduct which can be described as the financing of terrorism, adequate sanctions are

set in the form of imprisonment, seizure of assets, monetary penalties, and, where appropriate, a prohibition of activity and the forfeiting of items.

In cases of the breach of duties set in sanctions legislation (i.e. Act No. 98/2000, on the implementation of international sanctions to maintain international peace and security, and Act No. 48/2000, on measures in relation to the Afghan movement, the Taliban and Decree No. 164/2000 on measures in relation to the Afghan movement, the Taliban), a natural or legal person may be subject to a fine (administrative penalty) of up to CZK 5,000,000; if particularly important foreign-policy or security interests of the State are threatened, a fine of up to CZK 30,000,000 may be imposed. For breaches of the duties laid down under Act No. 61/1996, a fine of up to CZK 2,000,000 may be imposed, and repeated breach or non-fulfilment of duties within a period of twelve (12) consecutive months may be subject to a fine of up to CZK 10,000,000 and/or revocation of a licence to engage in business activities and other self-employment.

In 2002, a Czech National Bank regulation was prepared and promulgated which takes into account the requirements contained in the material of the Basel Committee for Banking Supervision entitled "Customer Due Diligence for Banks", an integral part of which is the application of the "get to know your customer" principle. Given the need for consultation with the Czech Banking Association, the Financial Analysis Department of the Ministry of Finance and the Personal Data Protection Office, the regulation will not be issued until mid-2003. On the approval of the amendment to Act No. 61/1996, on certain measures against the legalization of proceeds from crime and on an amendment to related legislation, which should include the possibility of applying measures against money-laundering in the sphere of the fight against the financing of terrorism, the Czech National Bank is anticipating that the above-mentioned regulation will be amended to cover this area too.

II) State of organization. In the framework of the Department for the Detection of Corruption and Serious Crime of the Czech Republic Police Force, a specialized Proceeds Unit has been set up, which cooperates with other departments of the criminal police and investigators operating throughout the Czech Republic (i.e. from the National Narcotics Headquarters, the Department for the Detection of Organized Crime and the Office of Financial Crime and State Protection) in searching for, documenting, and identifying proceeds from predicative crime. In connection with financial investigations, checks are also run on the existence of third parties which are not active in the commission of source crimes but are active in the legalization of proceeds from such crimes.

Under the guidance of the Financial Analysis Unit of the Ministry of Finance, an interdepartmental working group has been set up, called the Clearing House. This group covers current problems related to money-laundering, the financing of terrorism, and the detection of proceeds from crime. The working group contains members from various ministries and other State administration authorities with competence in this area. At regular meetings information is exchanged and evaluations are run of current problems in the given areas, with attempts to get measures adopted (e.g. legislative instigation) which will help resolve the problems which have arisen.

An agreement has been concluded between the Ministry of the Interior and the Ministry of Finance on a joint approach, mutual assistance and cooperation in combating crime threatening the fiscal interests of the State. The subject of this

agreement is the commitment of both contracting parties to provide each other, in the scope of valid legal regulations, with the necessary information and to coordinate their activities in areas of common interest. In terms of combating terrorism, it is proposed that tax confidentiality be rescinded in relation to a specialized police unit and that in necessary cases investigations and clarification of terrorist activities be carried out. The breach of such confidentiality is to be regulated in the new Tax Rules (replacing the original Act on the Management of Taxes and Charges), which should be passed in July 2003. The Ministry of Finance (General Directorate of Customs) has also concluded a bilateral agreement with all intelligence services (military and civil), with the Ministry of Defence and the Ministry of the Interior (the Czech Republic Police Force), which has intensified the exchange of information among these relevant authorities.

Since the beginning of 2003, there has been direct bilateral cooperation with the newly set up unit of the Central Financial and Fiscal Headquarters, which involves cooperation in checks and in drawing up documentation regarding the legal sources of the income of persons of interest and the application of alternative principles of exhausting illegal assets (principles of economic destabilization of criminal structures), the application of the principle of an alternative violation — evasion of taxes, charges and similar statutory payments (Section 148 of the Penal Code), or non-fulfilment of a notification duty in fiscal proceedings (Section 148b of the Penal Code).

Other work on finding solutions to tasks related to combating terrorism (including the financing of terrorism) is developed within the framework of operative working groups set up in accordance with tasks incorporated into the National Action Plan to Combat Terrorism: a) International Group; b) Criminal Law Group; c) Administrative Law Group.

Examples of the coordination of work at a regional and international level are the integration of the Czech Republic into the structures of Europol, Interpol, the Financial Action Task Force (FATF), the Police Working Group for Terrorism (PWGT), and Egmont. The Czech Republic also contributes to the European Union PHARE project, module 08 — consultation, training, and receipt of experiences from units for the seizure of proceeds from crime in Germany. Up-to-date information is also passed on in the scope of specialist training and seminars attended by employees of the Czech Republic Police Force.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

No assets have been frozen in the Czech Republic.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

No such action has been taken in the Czech Republic.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa'idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds, and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

The following information supplements the joint answer to questions 10 and 11

Resolution of the Czech Republic Government No. 773 of 26 July 2000 tasked the Ministry of Justice, the Ministry of the Interior and the Ministry of Finance with ensuring compliance of domestic legislation with the commitments stemming from the International Convention for the Suppression of the Financing of Terrorism. At the end of 2002, the Czech Republic Government was presented with a draft amendment to Act No. 61/1996, on certain measures against the legalization of proceeds from crime and an amendment to related legislation, which would, inter alia, impose the obligation on financial institutions to supply information about transactions where there is a suspicion that they are related to terrorism.

In order to ensure inspections of investments and grants with the aim of preventing possible money-laundering or the financing of terrorism, the evaluation committees investigate investments and grants in the following areas of activity:

- support for the building of an accompanying tourist infrastructure for sports and recreational activities;
- support for balneology;
- grants in the framework of the Rural Revival Programme and the Regional Programme for the Support of the Development of Economically Weak and Structurally Afflicted Regions;
- grants in the framework of the programme to support housing;
- grants in the framework of the European Union (EU) pre-accession programme (the SAPARD programme);
- EU grants in the framework of the EU programme (PHARE programme).

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390 (2002)).

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

Joint answer to questions 15,16, 17:

The mechanism for the transcription of persons included in the sanctions list of the United Nations into the list of wanted persons used in the Czech Republic is as follows:

(a) The list is distributed via the Ministry of Foreign Affairs to the Ministry of Finance (the Financial Analysis Unit) and the Ministry of the Interior (Police Headquarters, where it is mainly used in the Department for the Detection of Organized Crime — Criminal Police and Investigation Service (UOOZ) and in the Department for the Detection of Corruption and Financial Crime — Criminal Police and Investigation Service (UOKFK)); a similar list is also acquired via Interpol by the Department for International Cooperation at the Ministry of the Interior (OMPS).

(b) In accordance with Ministry of the Interior Regulation No. 33/2002, authorized persons (in the case of the list connected with United Nations Security Council resolution 1267 (1999) this was the Department for International Cooperation) will enter information on wanted persons or persons subject to sanctions by means of the operations department of the Police Headquarters, and by means of the Headquarters of the Regional Administrations of the Czech Republic Police Force into a national database (PATROS, ENO). These entries need only contain the information contained in the corresponding online United Nations list (name, date of birth, and address).

(c) Newly entered persons are given a once-through examination by the Criminal Police and Investigation Service (to check whether this person currently lives on the territory of the Czech Republic, whether he or she has ever lived here, whether he or she has crossed the border of the Czech Republic, transited the country, applied for a visa, sought asylum, whether he or she has opened a bank account here, etc.).

Border-crossing personnel can access the list of wanted persons (as well as lists of artefacts, forgeries, documents and vehicles, including instant reference to the Canadian headquarters of Interpol) via the Internet (http://www.interpol.int/public/wanted/search/recent.asp) and, besides the connection to the PATROS and ENO databases, access is also possible via the web site of the Ministry of the Interior (http://www.mvcr.cz) via the Relations and Tracking references.

Also connected with the above-mentioned circumstances are measures to combat the forging of travel documents, the security of State borders, and the visa policy:

Since July 2000, the Ministry of the Interior has been operating a centralized system for machine-readable personal identification documents of the Czech Republic. The output of this system is machine-readable passports and identity cards with the printed form of the holder's signature. Counterfeit or altered machine-readable passports (specimen 2000) have not yet been detected, according to the latest information. The machine-readability of the above-mentioned documents will make it possible to speed up and make more precise the process of clearance at border crossings.

In connection with the Czech Republic's preparations for membership in the European Union, preparatory work has started on ensuring the application of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (the Dublin Convention) of 1990 and Council Regulation (EC) 2725/2000, on the establishment of the Eurodac system, as a means of determining the identity of asylum-seekers and persons arrested in connection with unauthorized crossing of the external borders of the European Union or the borders between individual Member States of the European Union.

This problem is handled within the scope of preparations for the Immigration and Border Police to be integrated into international Schengen cooperation. The Eurodac Czech Republic Centre has been affiliated with the already established and expanding Automated Fingerprint Identification System information system, used by the Czech Republic Police Force for the purpose of criminal proceedings and the control of legal and illegal migration. Its standardized software product meets the requirement of compatibility with the system used in Member States of the European Union.

Most police information systems in the Czech Republic, which keep records in accordance with the Schengen Agreement Implementing Convention, are operated as a national central police database with access via the Internet, and are either in full operation or test operation.

With the aim of creating legislative conditions to ensure the safety of the State borders in accordance with the Schengen requirements, Government Draft Act No. 216/2002, on the protection of the State borders of the Czech Republic and on an amendment to related legislation, was drawn up and subsequently passed. This Act

entered into effect on 1 January 2003 (with the exception of provisions whose effect is linked to the cancellation of controls at internal borders, i.e. on the Czech Republic's entry to the Schengen system).

To ensure the protection of State borders in accordance with the Schengen requirements, on 1 January 2002 the organizational structure of the Immigration and Border Police Service was changed and a special department of the Czech Republic Police Force was set up with national coverage, responsible for the fulfilment of tasks related to the protection of State borders and the stay of foreigners on the territory of the Czech Republic. This department is also the only entity responsible for coordination, in the sphere of activities directly related to the protection of borders, with the bodies for the protection of the borders of neighbouring countries and EU Member States.

Within the scope of implementing the Concept for the Modernization of the Visa Process, approved by Czech Republic Government Resolution No. 748 of 18 November 1998, the Headquarters of the Immigration and Border Police Service and the Ministry of Foreign Affairs are cooperating on a project for the blanket introduction of an electronically supported system for the granting of visas at embassies and consular offices, which includes the running of automated and non-automated security checks on all applications for Czech visas in the scope of consultations between the Ministry of Foreign Affairs and the Czech Republic Police Force.

The emergence of the information systems of the Ministry of Foreign Affairs and the Headquarters of the Immigration and Border Police Service started in 1998, when a pilot project was launched. After trial operations, the module called "Modernization of the Visa Process" was gradually installed at remaining embassies and consular offices in 1999.

An amendment to the Asylum Act was adopted with effect as at 1 February 2003, which completed the process of harmonization with Community asylum law; the "Euro-amendment" of the Act on the Residence of Aliens, promulgated in the Collection of Laws under number 217/2002, was also passed. The current procedure applied in the EU and individual EU Member States as regards migration and asylum policy is monitored.

Preparatory work has started on ensuring the application of the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (the Dublin Convention) of 1990 and Council Regulation (EC) 2725/2000, concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention, as a means of determining the identity of asylum-seekers and persons arrested in connection with unauthorized crossing of the external borders of the European Union, or the borders between individual Member States of the European Union.

The activities of an international working group focusing on asylum and migration in the scope of the Budapest Process, including most European States, have been launched. A pilot project for the rapid identification of persons based on fingerprints (the Automated Fingerprint Identification System project) has been implemented.

The Ministry of the Interior, as the general coordinator, has prepared a Draft Act on the temporary protection of immigrants and a Draft Act which, in connection with

the adoption of the Act on Temporary Protection, amends Act No. 326/1999, on the residence of foreigners on the territory of the Czech Republic and on an amendment to related legislation, Act No. 325/1999, on asylum and an amendment to Act No. 283/1991, on the Czech Republic Police Force, as amended, and Act No. 359/1999, on the socio-legal protection of children.

The Draft Act on the temporary protection of immigrants was presented to the Government in November 2002. This draft act was passed by the Government and is currently being debated by the Parliament of the Czech Republic. The draft act is expected to enter into effect in August 2003.

In order to ensure the organizational consolidation of activities and an improvement in coordination, the Czech Republic Police Force and the intelligence services, in the fulfilment of tasks under the Asylum Act and separate legal regulations, are authorized to enter the records of the Ministry of the Interior which are kept in connection with asylum proceedings and to use the information stored in them, including personal data.

Reinforcement of border protection — the Immigration and Border Police Service runs checks on persons on arrival in the Czech Republic and on departure from the Czech Republic, including checks on the authenticity of their travel documents and particulars required to enter the Czech Republic. The screening of persons and motor vehicles in all police records is carried out at border crossings. Measures aimed at cooperation with the customs and police authorities of neighbouring States are implemented at border crossings. The customs authorities run checks on vehicles as they cross State borders.

To ensure the protection of State borders in accordance with the Schengen requirements, on 1 January 2002 the organizational structure of the Alien and Border Police Service was changed and a special department of the Czech Republic Police Force was set up with national coverage, responsible for the fulfilment of tasks related to the protection of State borders and the stay of foreigners on the territory of the Czech Republic.

With the aim of creating legislative conditions to ensure the protection of the State borders in accordance with the Schengen requirements, Government Draft Act No. 216/2002, on the protection of the State borders of the Czech Republic and on an amendment to related legislation, was drawn up and subsequently passed. This Act entered into effect on 1 January 2003.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

No.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?**

In the scope of implementing the Concept for the Modernization of the Visa Process, approved by the Czech Republic Government Resolution No. 748 of 18 November 1998, the Headquarters of the Immigration and Border Police Service and the Ministry of Foreign Affairs are cooperating on a project for the blanket introduction of an electronically supported system for the granting of visas at embassies and

consular offices, which includes the running of automated and non-automated security checks of all applications for Czech visas in accordance with referential database lists in the scope of consultations between the Ministry of Foreign Affairs and the Czech Republic Police Force.

The Czech Republic Police Force inspects whether a newly entered person (subject to sanctions) has been placed in the database of asylum-seekers. Most activities in this respect, however, are carried out at consular offices.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related material of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of al-Qa`idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

Act No. 21/1997, on the control of exports and imports of goods and technologies subject to international control regimes, in the wording of Act No. 204/2002 provides an instrument for the control and limitation of the availability of weapons of mass destruction, or items which can be used for WMD development and production by unreliable entities (persons or organizations) in the Czech Republic. Based on this Act and the relevant implementing regulations, by applying a licensing procedure it is possible not just to control the exports of goods of ambiguous use, as specified in lists, but also to apply special cases of licensing proceedings for items not elsewhere specified. Therefore, it is possible to refuse to grant an export licence on grounds cited directly in the law, including security and foreign-policy grounds.

As regards control of the non-proliferation of nuclear weapons, inspection activities under Act No. 18/1997, on the peaceful use of nuclear energy and ionizing radiation, in the wording of Act No. 13/2002, and in accordance with Regulation No. 145/1997, on the record-keeping and control of nuclear materials and their more detailed specification in the wording of Regulation No. 316/2002, and in accordance with Regulation No. 179/2002, appointing a list of selected items and items of dual use in the nuclear sector are carried out thoroughly.

In terms of the control of the non-proliferation of bacterial (biological) and toxin weapons, licences are issued for work with high-risk biological components and toxins, and inspection activity follows, in accordance with Act No. 281/2002, on certain measures connected with the prohibition of bacterial (biological) and toxin

weapons and on an amendment to the Trades Licensing Act (this Act entered into force on 28 June 2002).

As regards the control of the non-dissemination of chemical weapons, the inspection activities of the State Office for Nuclear Safety are intensified in accordance with Act No. 19/1997, on certain measures connected with the prohibition of chemical weapons, in the wording of Act No. 249/2000.

In response to the terrorist attacks on the United States of America, in accordance with the tasks stemming from the negotiations of the Central Crisis Committee, a specialist working group was set up under the coordination and direction of the Ministry of Industry and Trade, focusing on increased inspections in the field of foreign trade in military materials. The members of this group were representatives of the Ministry of Industry and Trade, Ministry of the Interior, Ministry of Defence, Ministry of Foreign Affairs, National Security Office, Security Information Service, and Office for Foreign Relations and Information.

In accordance with sub-measures planned by this interministerial group, the Ministry of Industry and Trade identified the holders of licences to operate foreign trade in military materials which required investigation. On this basis, 132 legal persons were investigated; in one case, an order was issued to commence administrative proceedings to revoke the licence to engage in foreign trade in military materials, due to the prosecution of a member of the statutory body and co-owners of the company. Although only one petition was filed for the commencement of administrative proceedings, these investigations can be viewed as a significant element contributing to the security of foreign trade in military materials.

Act No. 21/1997, on the control of exports and imports of goods and technologies subject to international inspection regimes, was amended in May 2002 by Act No. 204/2002. This Act entered into effect on 24 May 2002. The Act on Foreign Trade in Military Materials was also amended, which made it an obligation for natural persons (members of statutory bodies, proxies, and other persons where appropriate) who apply for a licence to conduct foreign trade in military materials to fulfil the conditions of security eligibility.

At the beginning of October 2002, information about the requirements placed on the operation with respect to carrying out foreign trade in military materials in the Czech Republic, together with the Code of Military Material Exporter Practices in the Czech Republic and other documentation (e.g. the Joint Action of the European Union to Combat the Destabilizing Amassing and Distribution of Hand and Light Weapons, including its amended, expanded version), was sent to all those holding a licence to conduct foreign trade in military materials in the Czech Republic. This information is also available on the web site of the Ministry of Industry and Trade.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

No special legislative measures have been adopted in connection with the implementation of the sanctions regime against the Taliban or **al-Qa'idah**. Any crimes in the sense of a breach of the relevant United Nations Security Council resolution would be judged in accordance with Section 124a of the Penal Code.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

The conditions for carrying out foreign trade in military materials are regulated by Act No. 38/1994, on foreign trade in military materials and on an amendment to Act No. 455/1991, on trades licensing (the Trades Licensing Act), as amended, and Act No. 140/1961, the Penal Code, as amended, in the wording of Act No. 310/2002. The Licensing Authority of the Ministry of Industry and Trade will not issue licences for the export of military materials without prior approval from the Ministry of Foreign Affairs.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated?**

An integral part of the licensing procedures is the checking of the final use of the exported goods and the final user, prior to the issuance of the licence. The Licensing Authority of the Ministry of Industry and Trade cooperates in sensitive cases with the Ministry of Foreign Affairs and takes into account information from partner countries. The inspection bodies are primarily the customs authorities (the Ministry of Finance — Directorate General of Customs) and the State Office for Nuclear Safety. The requirements needed for regular physical checks of the final usage of exported goods abroad (connected with ex-territory competence) do not currently exist in Czech law.

VI. Assistance and conclusion

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa'idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

No specific assistance is currently required. The Czech Republic believes it can rely adequately on informal consultations of delegates of the Ministry of the Interior of the Czech Republic or other experts with members of the United Nations Counter-Terrorism Committee (CTC), which are held parallel to certain negotiations of the United Nations Office at Vienna (UNOV) on issues of drugs and crime (United Nations Office on Drugs and Crime — UNODC), especially as regards the Worldwide Anti-Terrorism Programme derived from United Nations Security Council resolution 1373 (2001) of 28 September 2001, which, in the framework of certain decisions sets forth priorities in the fight against terrorism and evaluates the fulfilment thereof by individual United Nations Member States.

26. **Please include any additional information you believe pertinent.**

We have no further information to supply.